

IDAHO ADMINISTRATIVE BULLETIN

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rule-making documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Rulemaking Notice published in the Bulletin. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 05-1 refers to the first Bulletin issued in calendar year 2005; Bulletin 06-1 refers to the first Bulletin issued in calendar year 2006. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 05-1 refers to January 2005; Volume No. 05-2 refers to February 2005; and so forth. Example: The Bulletin published in January of 2006 is cited as Volume 06-1. The December 2005 Bulletin is cited as Volume 05-12.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

*The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules that have been approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are **not** printed in the Administrative Code and are published only in the Bulletin.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Rulemaking Index of Idaho Administrative Rules**, printed in each Bulletin.*

TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN

The state of Idaho administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.

NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a "Notice of Intent to Promulgate" a rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.

PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a "Notice of Proposed Rulemaking" in the Bulletin. This notice must include:

- a) the specific statutory authority (from Idaho Code) for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and*
- g) the deadline for public (written) comments on the proposed rule.*

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.

TEMPORARY RULEMAKING

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) protection of the public health, safety, or welfare; or*
- b) compliance with deadlines in amendments to governing law or federal programs; or*
- c) conferring a benefit;*

If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.

A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

State law required that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as the proposed rule, the rulemaking can be done concurrently as a proposed/temporary rule. Combining the rulemaking allows for a single publication of the text.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rulemaking that is being vacated, the agency, in most instances, should rescind the temporary rule.

PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it become a final, enforceable rule.

When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Pending Rulemaking". This includes:

- a) a statement giving the reasons for adopting the rule;*
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;*
- c) the date the pending rule will become final and effective;*
- d) an identification of any portion of the rule imposing or increasing a fee or charge.*

Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the "Notice of Pending Rulemaking" is published.

FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is in effect and enforceable.

No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that an agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A "Notice of Final Rule" must be published in the Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule that has been reviewed by the legislature and has not been rejected, amended or modified will become final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule that is final and effective may be applied retroactively, as provided in the rule.

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls, Twin Falls, Lewiston and East Bonner County Library.

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-00306, telephone (208) 332-1820.

The Idaho Administrative Bulletin is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

The Idaho Administrative Code, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes tables of contents, reference guides, and a subject index.

Individual Rule Chapters and *Individual RuleMaking Dockets*, are specific portions of the Bulletin and Administrative Code produced on demand.

Internet Access - The Administrative Code and Administrative Bulletin are available on the Internet at the following address: <http://adm.idaho.gov/adminrules/>

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the *Idaho Administrative Bulletin* are organized by a numbering system. Each state agency has a two-digit identification code number known as the "**IDAPA**" number. (The "**IDAPA**" Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit "**TITLE**" number is assigned. There are "**CHAPTER**" numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:

IDAPA 38.07.01.200.02.c.ii.

"IDAPA" refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

"IDAPA 38" refers to the Idaho Department of Administration

"05." refers to Title 05, which is the Department of Administrations's Division of Purchasing

"01." refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing"

"200." refers to Major Section 200, "Content of the Invitation to Bid"

"02." refers to Subsection 200.02.

"c." refers to Subsection 200.02.c.

"ii." refers to Subsection 200.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER." The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0501). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

"DOCKET NO. 38-0501-0501"

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

"0501-" refers to the TITLE AND CHAPTER numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE 05), Rules of the Division of Purchasing (Chapter 01).

"0501" denotes the year and sequential order of the docket received during the year; in this case the first rule-making action in calendar year 2005.

Within each Docket, only the affected sections of chapters are printed. (see **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:

(BREAK IN CONTINUITY OF SECTIONS)

**INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE
RULES IN THE CODE AND BULLETIN**

When making a citation to another Section or Subsection of a rule that is part of the same rule, a typical internal citation may appear as follows:

"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."

The citation may also include the IDAPA, Title, or Chapter number, as follows"

"...in accordance with IDAPA 38.05.01.201..."

"38" denotes the IDAPA number of the agency.

"05" denotes the TITLE number of the rule.

"01" denotes the Chapter number of the rule.

"201" denotes the main Section number of the rule to which the citation refers.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, "Rules Governing Capitol Mall Parking."

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2006

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
06-1	January 2006	*November 19, 2005	January 4, 2006	January 25, 2006
06-2	February 2006	January 5, 2006	February 1, 2006	February 22, 2006
06-3	March 2006	February 3, 2006	March 1, 2006	March 22, 2006
06-4	April 2006	March 3, 2006	April 5, 2006	April 26, 2006
06-5	May 2006	March 31, 2006	May 3, 2006	May 24, 2006
06-6	June 2006	May 5, 2006	June 7, 2006	June 28, 2006
06-7	July 2006	June 2, 2006	July 5, 2006	July 26, 2006
06-8	August 2006	June 30, 2006	August 2, 2006	August 23, 2006
06-9	September 2006	August 4, 2006	September 6, 2006	September 27, 2006
06-10	October 2006	**August 23, 2006	October 4, 2006	October 25, 2006
06-11	November 2006	October 6, 2006	November 1, 2006	November 22, 2006
06-12	December 2006	November 3, 2006	December 6, 2006	December 27, 2006

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2007

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07-1	January 2007	*November 15, 2006	January 3, 2007	January 24, 2007
07-2	February 2007	January 5, 2007	February 7, 2007	February 28, 2007
07-3	March 2007	February 2, 2007	March 7, 2007	March 28, 2007
07-4	April 2007	March 2, 2007	April 4, 2007	April 26, 2007
07-5	May 2007	April 6, 2007	May 2, 2007	May 24, 2007
07-6	June 2007	May 4, 2007	June 6, 2007	June 28, 2007
07-7	July 2007	June 1, 2007	July 4, 2007	July 26, 2007
07-8	August 2007	June 29, 2007	August 1, 2007	August 23, 2007
07-9	September 2007	August 3, 2007	September 5, 2007	September 27, 2007
07-10	October 2007	**August 22, 2007	October 3, 2007	October 25, 2007
07-11	November 2007	October 5, 2007	November 7, 2007	November 22, 2007
07-12	December 2007	November 2, 2007	December 5, 2007	December 27, 2006

****Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.***

*****Last day to submit proposed rules in order to complete rulemaking for review by legislature.***

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IDAPA 38	Administration, Department of	VOLUME 8
IDAPA 44	Administrative Rules Coordinator, Office of the	VOULME 8
IDAPA 02	Agriculture, Idaho Department of	VOLUME 1
IDAPA 40	Arts, Idaho Commission on the	VOLUME 8
IDAPA 03	Athletic Commission	VOLUME 1
IDAPA 04	Attorney General, Office of the	VOLUME 1
IDAPA 53	Barley Commission, Idaho	VOLUME 9
IDAPA 51	Beef Council, Idaho	VOLUME 9
IDAPA 07	Building Safety, Division of Electrical Board Plumbing Board Building Code Advisory Board Public Works Contractors License Board HVAC Board	VOLUME 2
IDAPA 43	Canola and Rapeseed Commission, Idaho	VOLUME 8
IDAPA 09	Commerce and Labor, Idaho Department of	VOLUME 2
IDAPA 06	Correction, Board of	VOLUME 2
IDAPA 19	Dentistry, Board of	VOLUME 6
IDAPA 08	Education, Board of and Department of	VOLUME 2
IDAPA 10	Engineers and Land Surveyors, Board of Professional	VOLUME 2
IDAPA 58	Environmental Quality, Department of	VOLUME 9
IDAPA 12	Finance, Department of	VOLUME 3
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IDAPA 14	Geologists, Board of Registration of Professional	VOLUME 3

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IDAPA 15	Governor, Office of the Idaho Commission on Aging Idaho Commission for the Blind and Visually Impaired Idaho Forest Products Commission Division of Human Resources and Personnel Commission Idaho Liquor Dispensary Emergency Response Commission	VOLUME 3
IDAPA 48	Grape Growers and Wine Producers Commission	
IDAPA 16	Health and Welfare, Department of	VOLUMES 3, 4, & 5
IDAPA 45	Human Rights Commission	VOLUME 8
IDAPA 30	Idaho State Library	VOLUME 7
IDAPA 11	Idaho State Police	VOLUME 2 & 3
IDAPA 39	Idaho Transportation Department	VOLUME 8
IDAPA 17	Industrial Commission	VOLUME 5
IDAPA 18	Insurance, Department of	VOLUME 5 & 6
IDAPA 05	Juvenile Corrections, Department of	VOLUME 1
IDAPA 20	Lands, Department of	VOLUME 6
IDAPA 52	Lottery Commission, Idaho State	VOLUME 9
IDAPA 22	Medicine, Board of	VOLUME 6
IDAPA 23	Nursing, Board of	VOLUME 6

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IDAPA 26	Parks and Recreation, Department of	VOLUME 6 & 7
IDAPA 27	Pharmacy, Board of	VOLUME 7
IDAPA 29	Potato Commission, Idaho	VOLUME 7
IDAPA 59	Public Employee Retirement System of Idaho - PERSI	VOLUME 9
IDAPA 41	Public Health Districts	VOLUME 8
IDAPA 31	Public Utilities Commission	VOLUME 7
IDAPA 56	Rangeland Resources Commission, Idaho	VOLUME 9
IDAPA 33	Real Estate Commission, Idaho	VOLUME 7
IDAPA 34	Secretary of State, Office of the	VOLUME 7
IDAPA 57	Sexual Offender Classification Board	VOLUME 9
IDAPA 49	Shorthand Reporters, Board of Certified	VOLUME 8
IDAPA 36	Tax Appeals, Board of	VOLUME 7
IDAPA 35	Tax Commission, State	VOLUME 7
IDAPA 54	Treasurer, Office of the State	VOLUME 8

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS		
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IDAPA 46	Veterinary Medical Examiners, Board of	VOLUME 8
IDAPA 55	Vocational and Technical Education, Division of	VOLUME 9
IDAPA 47	Vocational Rehabilitation, Division of	VOLUME 8
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THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2006-36

**CREATING THE GOVERNOR'S EXPERIMENTAL PROGRAM
TO STIMULATE COMPETITIVE RESEARCH COMMITTEE**

WHEREAS, the Idaho Experimental Program to Stimulate Competitive Research (EPSCoR) program has proven to be vital to the science and research institutions of Idaho; and

WHEREAS, the EPSCoR program is directly responsible for over \$124 million dollars in research return dollars to Idaho Universities; and

WHEREAS, the EPSCoR Committee, responsible for administering the EPSCoR program, has a seventeen year history of advancing research and development opportunities and championing education and science in Idaho's institutions; and

WHEREAS, independence from all Idaho institutions of higher learning creates the best environment for objective science and research based judgment; and

WHEREAS, the EPSCoR Committee would benefit from the independence found in relocation and establishment within the Office of the Governor;

NOW, THEREFORE, I, JAMES E. RISCH, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby order the following:

1. *The Experimental Program to Stimulate Competitive Research Committee (EPSCoR Committee) be relocated and established within the Office of the Governor.*
2. *The EPSCoR Committee shall strive to increase the research and development competitiveness of Idaho by developing and using the science and technology resources of the State's major research institutions and partner institutions.*
3. *The Committee shall achieve this by:*
 - a. *Stimulating sustainable science and technology infrastructure improvements at the state and institutional levels to increase the ability of EPSCoR researchers to compete for Federal and private sector research and development funding; and*
 - b. *Accelerating the movement of EPSCoR researchers and institutions into the mainstream of Federal and private sector research and development support.*
4. *Members of the EPSCoR Committee shall:*
 - a. *Be appointed by and serve at the pleasure of the Governor for a term of 5 years except initial appointments to the committee which shall be apportioned in the following manner:*
 - i. *5 members shall serve for a period of one year;*
 - ii. *5 members shall serve for a period of two years; and*
 - iii. *5 members shall serve for a period of three years;*
 - iv. *4 members shall serve for a period of four years.*
 - b. *The members of the EPSCoR Committee shall elect the Chair of the Committee. The Chair shall be a member of the EPSCoR Committee.*

5. *Members of the EPSCoR Committee shall also develop and pass bylaws before December 31, 2007.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 8th day of December in the year of our Lord two thousand and six and of the Independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.

JAMES E. RISCH
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2006-37

AUTHORIZING THE TRANSFER OF FUNDS TO THE DISASTER EMERGENCY ACCOUNT

WHEREAS, tremendous financial obligations and expenses have been incurred by various departments, agencies and counties in responding to and assisting in efforts to deal with the extreme threat to public safety, health, property and the environment posed by declared disaster emergencies in Idaho; and

WHEREAS, all funds in the Disaster Emergency Account created by title 46, section 1005A of the Idaho Code have or soon will be expended; and

WHEREAS, funds in the General Fund are available to transfer to the Disaster Emergency Account under the requirements set forth in 46-1005A(2)(b); and

WHEREAS, it is my judgment, as Governor of the State of Idaho, that any moneys transferred from the General Fund up to the limits provided below will not be required to support the current year's appropriations.

NOW, THEREFORE, I, JAMES E. RISCH, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby order as follows:

- 1. The State Controller is directed to transfer money from the General Fund to the Disaster Emergency Account in such amount and at such times as directed by me or my designee, the Administrator of the Division of Financial Management. In no event shall more than two million dollars (\$2,000,000) be transferred for the purposes of this Executive Order from the General Fund to the Disaster Emergency Account during the current fiscal year.*
- 2. In no event may the revenues made available by section 46-1005A (2) (b) and (c), Idaho Code, for any and all emergency purposes exceed, during any fiscal year, one percent (1%) of the annual appropriation of general account moneys for that fiscal year.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 15th day of November, in the year of our Lord two thousand and six, and of the independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.

*JAMES E. RISCH
GOVERNOR*

*BEN YSURSA
SECRETARY OF STATE*

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2006-38

**CREATING THE BOARD OF JUVENILE CORRECTIONS AND DESIGNATING IT AS THE PRIMARY
ADVISORY BODY FOR THE GOVERNOR AND THE DIRECTOR OF THE DEPARTMENT
OF JUVENILE CORRECTIONS ON MATTERS PERTAINING TO JUVENILE CORRECTIONS**

WHEREAS, an independent body would provide valuable recommendations on fiscal, policy and administrative matters concerning juvenile corrections to the Governor and the Director of the Department of Juvenile Corrections (Department); and

WHEREAS, an independent body would provide a unique perspective on the development of goals, standards and measures to evaluate the effectiveness and efficiency of the Department and its programs;

NOW, THEREFORE, I, JAMES E. RISCH, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby order the following:

- 1. The Board of Juvenile Corrections (Board) is hereby designated the primary advisory body for the Governor and the Department Director on matters pertaining to juvenile corrections.*
- 2. The Board shall be responsible for advising the Governor and the Department Director on fiscal, policy and administrative matters concerning Idaho's Juvenile Corrections system.*
- 3. The Board shall be responsible for the development of goals, standards and measures to evaluate the effectiveness and the efficiency of the Department and its programs.*
- 4. The Juvenile Justice Commission shall be responsible for advising the Board on local and district juvenile corrections issues.*
- 5. The Board shall consist of the following members:*
 - a. Three Idaho citizens:*
 - i. Who shall be appointed by and serve at the pleasure of the Governor.*
 - ii. Who shall initially serve staggered terms of two, four and six years.*
 - iii. Upon the expiration of the initial terms, appointments shall be for six-year terms.*
 - b. The Chair of the Senate Judiciary and Rules Committee who shall serve on a voluntary basis.*
 - c. The Chair of the House Judiciary and Rules Committee who shall serve on a voluntary basis.*
- 6. The Board shall serve without compensation, but shall be reimbursed for actual travel expenses not to exceed State Guidelines.*
- 7. The Department shall pay the Board's travel expenses.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 15th day of November in the year of our Lord two thousand and six and of the Independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.

JAMES E. RISCH
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2006-39

CREATING THE GOVERNOR'S MANUFACTURED HOME PARK ADVISORY COMMITTEE

WHEREAS, the Office of the Governor has received numerous concerns about the complexity of the laws and rules governing manufactured home ownership; and

WHEREAS, oftentimes, Idahoans who reside in manufactured homes are elderly, on a fixed income, or are of limited means making it difficult to relocate when the property their manufactured home is located on is sold; and

WHEREAS, it is important to seek out and understand the State's role, in creating a solution to this problem;

NOW, THEREFORE, I, JAMES E. RISCH, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby order the following:

- 1. The creation of the Governor's Manufactured Home Park Advisory Committee (Committee).*
- 2. The members of the Committee shall be appointed by and serve at the pleasure of the Governor.*
 - a. The Committee shall be composed of as many members as the Governor deems necessary and sufficient.*
 - b. The Governor shall choose the Chair of the Committee from the membership of the Committee.*
- 3. The Department of Health and Welfare and Department of Commerce and Labor will staff the Committee.*
- 4. The Committee is tasked with working with appropriate State agencies in Idaho and surrounding States in addition to other interested parties to make recommendations to the Governor about the State's role in a collaborative effort aimed at helping individuals who live in manufactured homes and are forced to relocate but lack the means to do so.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 6th day of December in the year of our Lord two thousand and six and of the Independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.

*JAMES E. RISCH
GOVERNOR*

*BEN YSURSA
SECRETARY OF STATE*

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2006-40

ESTABLISHING A POLICY FOR ALL STATE AGENCIES CONCERNING ILLEGAL IMMIGRANTS

WHEREAS, the State of Idaho has a responsibility to its citizens to ensure that tax dollars are not paid to those who have entered our nation illegally; and

WHEREAS, those who choose to enter our nation illegally should not be rewarded for their actions; and

WHEREAS, the State of Idaho should work to ensure that jobs are available for those who are lawfully entitled to work in our State and nation; and

WHEREAS, the State of Idaho is in a position to lead by example by addressing the issue of illegal immigration; and

WHEREAS, the federal program known as Systematic Alien Verification for Entitlements provides states, local governments and private and publicly held companies with tools to proactively address illegal immigration; and

WHEREAS, the State of Idaho encourages other employers, both public and private, within the State to utilize all available tools to ensure that workers are eligible for employment in Idaho;

NOW, THEREFORE, I, JAMES E. RISCH, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby order the following:

- 1. The Division of Human Resources shall develop and implement procedures to verify and ensure that all new employees with any agency of the State of Idaho are eligible for employment under federal and state law.*
- 2. The Department of Administration shall develop and implement procedures to verify and ensure, from the date of this executive order forward, that contracts for services performed for the State in Idaho are with businesses that employ individuals who are eligible under federal and state law to work in the United States.*
- 3. The Department of Health and Welfare shall evaluate its existing procedures and programs and if necessary implement new procedures or programs to ensure that only individuals who are legally eligible receive government benefits in Idaho.*
- 4. The Department of Commerce and Labor shall evaluate its programs, procedures, and policies and implement new programs, procedures, or policies if necessary, to ensure that only individuals who are legally eligible receive unemployment benefits from the State of Idaho.*
- 5. The Departments of Commerce and Labor, Administration and Health and Welfare and the Division of Human Resources and the Bureau of Occupational Licenses shall develop and implement a strategy to educate and inform private businesses in Idaho about their programs and efforts.*
- 6. For the purpose of this executive order and only this executive order "agency" shall mean all offices, departments, divisions, bureaus, boards, and commissions of the State, excluding the legislative and judicial branches of government.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 13th day of December in the year of our Lord two thousand and six and of the Independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.

JAMES E. RISCH
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.01.04 - RULES GOVERNING THE IDAHO PREFERRED™ PROMOTION PROGRAM

DOCKET NO. 02-0104-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-112, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The change made in the proposed rule adds a section requiring Department approval of use of logo on packaging and printed materials. It also makes a clerical revision throughout the rule changing the symbol from Idaho Preferred™ to Idaho Preferred® because the name and logo have completed the trademark process and are now registered marks.

There are no additional changes and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 30 through 36.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Laura M. Johnson, Section Manager or Leah Clark, Trade Specialist at (208) 332-8530.

DATED this 9th day of November, 2006.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

DOCKET NO. 02-0104-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 30 through 36.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.02.09 - RULES REQUIRING INSPECTION OF POTATOES INTENDED FOR SALE OR OFFERED FOR SALE IN RETAIL OUTLETS

DOCKET NO. 02-0209-0501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-901, 22-911 and 22-2006, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The changes made in the proposed rule are needed to update and clarify the requirements under the current rule and list specific exotic pests of concern to the Idaho Potato Industry for which a zero tolerance will be specified.

There are no additional changes and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Vol. 06-9, pages 19 through 22.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lee Stacey, Bureau Chief at (208) 332-8670 or Michael E. Cooper, Bureau Chief at (208) 332-8620.

DATED this 9th day of November, 2006.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

DOCKET NO. 02-0209-0501 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-9, September 6, 2006, pages 19 through 22.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-2710, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The change made in the proposed rule updates the incorporation by reference section to reflect the 2007 edition of the Official Publication of the Association of American Feed Control Officials (AAFCO), published in January or February each year. This is a standard reference manual for feed control officials for the registration of animal feeds.

There are no additional changes and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 5, 2006 Idaho Administrative Bulletin, Vol. 06-7, pages 18 and 19.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Bureau Chief or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 9th day of November, 2006.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

DOCKET NO. 02-0602-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-7, July 5, 2006, pages 18 and 19.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-0602

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-2710, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The changes made in the proposed rule update the current rules to reflect changes authorized under HB 465 passed by the 2006 legislature. Update the label requirements for pet foods to be consistent with the Association of American Feed Control Officials (AAFCO) uniform label requirements for pet foods. Clarify that viable noxious weed seed found in a feed is an adulterant.

A public hearing was held on October 12, 2006, no comments were received and no additional changes have been made; therefore, the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 37 through 54.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Rick Killebrew, Program Specialist, Ann Brueck, Program Specialist or Michael E. Cooper, Bureau Chief at (208) 332-8620.

DATED this 9th day of November, 2006.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

DOCKET NO. 02-0602-0602 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 37 through 54.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.12 - RULES PERTAINING TO THE IDAHO COMMERCIAL FERTILIZER LAW

DOCKET NO. 02-0612-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-604, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The change made in the proposed rule updates the incorporation by reference section to reflect the 2007 edition of the Official Publication of the Association of American Plant Food Control Officials (AAPFCO), published in January or February each year. This is a standard reference manual for fertilizer control officials for the registration of fertilizers.

There are no additional changes being made and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 5, 2006 Idaho Administrative Bulletin, Vol. 06-7, pages 20 and 21.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Bureau Chief or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 9th day of November, 2006.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

DOCKET NO. 02-0612-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-7, July 5, 2006, pages 20 and 21.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.22 - NOXIOUS WEED RULES

DOCKET NO. 02-0622-0601

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amended temporary rule is January 1, 2007. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and is amending the previously adopted temporary rule. The action is authorized pursuant to Section 22-2403, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule and temporary rule with an explanation of the reasons for any change.

Amends the Noxious Weed list, creates sub-lists, designates articles capable of disseminating noxious weeds, provides for articles capable of dissemination of noxious weed propagules, deletes reference to Special Management Zone, and adds penalty section.

Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 60 through 66.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Necessary to protect the public health, safety, or welfare and to implement the provisions of HB594 passed by the 2006 Legislature.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Matthew K. Voile, Ag Section Manager at (208) 332-8667.

DATED this 14th day of November, 2006.

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DOCKET NO. 02-0622-0601 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 60 through 66.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 02-0622-0601

Subsection 010.02

010. DEFINITIONS.

The Department adopts those definitions as set forth in Section 22-2402, Idaho Code, and in addition, adopts the following: (1-1-07)T

02. Implements of Husbandry. Every vehicle, including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations when being incidentally operated as an implement of husbandry. Such implements include, but are not limited to, combines, discs, dry and liquid fertilizer spreaders, cargo tanks, harrows, hay balers, harvesting and stacking equipment, pesticide applicator equipment, plows, swathers, mint tubs and mint wagons, and farm wagons. A farm tractor when attached to or drawing any implement of husbandry shall be construed to be an implement of husbandry. Implements of husbandry do not include semi trailers, nor do they include motor vehicles or trailers, unless their design limits their use to agricultural, horticultural, dairy or livestock growing and feeding operations. (~~1-1-07~~)T(1-1-07)T

Section 100, Subsections 100.01, 100.02, and 100.03

100. NOXIOUS WEEDS - DESIGNATIONS.

The following weeds lists listed on the Statewide EDRR, Containment, and Control lists - are hereby officially designated and published as noxious. (~~1-1-07~~)T(1-1-07)T

01. Statewide EDRR Noxious Weed List. ~~Weeds listed in Section 100 and identified within Idaho shall be eradicated during the same growing season as identified. Plants occurring in Idaho shall be reported to the Department within ten days (10) following positive identification by the University of Idaho or other qualified authority as approved by the Director.~~

Common Name		Scientific Name	
1.	Brazilian Elodea	1.	<i>Egeria densa P.</i>
2.	Giant Hogweed	2.	<i>Heracleum mantegazzianum</i>
3.	Hydrilla	3.	<i>Hydrilla verticillata</i>
4.	Policeman's Helmet	4.	<i>Impatiens glandulifera</i>
5.	Squarrose Knapweed	5.	<i>Centaurea Centaurea squarrosa</i>

Common Name		Scientific Name	
6.	Syrian Beancaper	6.	<i>Zygophyllum fabago</i>
7.	Tall Hawkweed	7.	<i>Hieracium piloselloides</i>
8.	Water Hyacinth	8.	<i>Eichhornia crassipes M.</i>
9.	Yellow Devil Hawkweed	9.	<i>Hieracium glomeratum</i>

If any of the above listed plants (Subsection 100.01) are found to occur in Idaho, they shall be reported to the Department within ten (10) days following positive identification by the University of Idaho or other qualified authority as approved by the Director. These weeds shall be eradicated during the same growing season as identified.
 (1-1-07)F(1-1-07)T

02. Statewide Control Noxious Weed List.

Common Name		Scientific Name	
1.	Black Henbane	1.	<i>Hyoscyamus niger</i>
2.	Bohemian Knotweed	2.	<i>Polygonum bohemicum</i>
3.	Bufflobur <u>Buffalobur</u>	3.	<i>Solanum rostratum</i>
4.	Common Crupina	4.	<i>Crupina vulgaris</i>
5.	Dyer's Woad	5.	<i>Isatis tinctoria</i>
6.	Eurasian Watermilfoil	6.	<i>Myriophyllum spicatum</i>
7.	Giant Knotweed	7.	<i>Polygonum sachalinesnse</i>
8.	Japanese Knotweed	8.	<i>Polygonum cuspidatum</i>
9.	Johnsongrass	9.	<i>Sorghum halpense</i>
10.	Matgrass	10.	<i>Nardus stricta</i>
11.	Meadow Knapweed	11.	<i>Centaurea pratensis</i>
12.	Mediterranean Sage	12.	<i>Salvia aethiopis</i>
13.	Musk Thistle	13.	<i>Carduus nutans</i>
14.	Orange Hawkweed	14.	<i>Hieracium aurantiacum</i>
15.	Parrotfeather Milfoil	15.	Myriophyllum <u>Myriophyllum</u> <i>aquaticum</i>
16.	Perennial Sowthistle	16.	<i>Sonchus arvensis</i>
17.	Russian Knapweed	17.	<i>Acroptilon repens</i>
18.	Scotch Broom	18.	<i>Sytisus scoparius</i>
19.	Silverleaf Nightshade	19.	<i>Solanum elaeagnifolium</i>
20.	Skeletonleaf Bursage	20.	<i>Ambrosia tomentosa</i>
21.	Small Bugloss	21.	<i>Anchusa</i> arvensis <u>arvensis</u>
22.	Toothed Spurge	22.	<i>Euphorbia dentata</i>
23.	Vipers Bugloss	23.	<i>Echium vulgare</i>

Common Name		Scientific Name	
24.	Yellow Hawkweed	24.	<i>Hieracium caespitosum</i>

Weeds listed in the control list are known to exist in varying populations throughout the state. The concentration of these weeds is at a level where control and/or eradication may be possible. A written plan for weeds on the Statewide Control Noxious Weed List ~~must~~ shall be developed by the control authority that specifies active control methods to reduce known populations in not more than five (5) years. The plan ~~must~~ shall be available to the Department upon request. ~~(1-1-07)T~~(1-1-07)T

03. Statewide Containment Noxious Weed List.

Common Name		Scientific Name	
1.	Canada Thistle	1.	<i>Cirsium arvense</i>
2.	Dalmation Toadflax	2.	<i>Linaria genistifolia ssp. dalmatica</i>
3.	Diffuse Knapweed	3.	<i>Centaurea diffusa</i>
4.	Field Bindweed	4.	<i>Convolvulus arvensis</i>
5.	Hoary Alyssum	5.	<i>Berteroa incana</i>
6.	Houndstongue	6.	<i>Cynoglossum officinale</i>
7.	Jointed Goatgrass	7.	<i>Aegilops cylindrica</i>
8.	Leafy Spurge	8.	<i>Euphorbia esula</i>
9.	Milium	9.	<i>Milium vernale</i>
10.	Oxeye Daisy	10.	<i>Chrysanthemum leucanthemum</i>
11.	Perennial Pepperweed	11.	<i>Lepidium latifolium</i>
12.	Plumeless Thistle	12.	<i>Carduus acanthoides</i>
13.	Poison Hemlock	13.	<i>Conium maculatum</i>
14.	Puncturevine	14.	<i>Tribulus terrestris</i>
15.	Purple Loosestrife	15.	<i>Lythrum salicaria</i>
16.	Rush Skeletonweed	16.	<i>Chondrilla juncea</i>
17.	Saltcedar	17.	<i>Tamarix</i>
18.	Scotch Thistle	18.	<i>Onopordum acanthium</i>
19.	Spotted Knapweed	19.	<i>Centaurea maculosa</i>
20.	Tansy Ragwort	20.	<i>Senecio jacobaea</i>
21.	White Bryony	21.	<i>Bryonia alba</i>
22.	Whitetop	22.	<i>Cardaria draba</i>
23.	Yellow Starthistle	23.	<i>Centaurea solstitialis</i>
24.	Yellow Toadflax	24.	<i>Linaria vulgaris</i>

Weeds listed in the containment noxious weeds list are known to exist in various populations throughout the state. Weed control efforts may be directed at reducing or eliminating new or expanding weed populations while known and established weed populations, as determined by the weed control authority, may be managed by any approved weed control methodology, as determined by the weed control authority. (1-1-07)T

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.31 - NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION RULES

DOCKET NO. 02-0631-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-2403 and 22-2404(J), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Update the title of the National standard that ISDA follows for field inspection procedures; delete portions that are not scientifically sound; add definitions; add language to address new products (Forage Cubes/Pellets) to be certified; upgrade the distribution requirements; and correct a reference to the Weed Law that is incorrect.

A request was made by a producer to explore a new method of certifying a new and emerging type of feed product. Language was added to the text of the pending rule to reflect the request and are published with this Notice of Rulemaking. Also, language was added to clarify that cubes/pellets can only be certified to one standard.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 67 through 77.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 22-2412, Idaho Code.

The inspection fees were slightly decreased for larger fields to be inspected.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dan Safford, Noxious Weed Program Specialist at (208) 332-8692.

DATED this 14th day of November, 2006.

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DOCKET NO. 02-0631-0601 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 67 through 77.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0631-0601

Section 010 - Entire Section

00410. DEFINITIONS.

The definitions found in Section 22-2402, Idaho Code, apply to this chapter. In addition, as used in this chapter:

(7-1-94)

01. Agent. *Means* Any instrumentality or entity authorized by the director of the department, and acting on behalf of the department, to administer the provisions of this rule. Any designated agent shall act in an official capacity for the department and under the supervision of the director of the department. The principal purpose of the agent is to establish, conduct, and maintain a uniform and reasonable system of inspection and certification of forage and straw crops to determine if such crops are noxious weed free. ~~(3-10-00)~~(____)

02. Approved Inspector. *Means* An individual who has been accredited by the department or by the department's agent in the noxious weed free forage and straw certification program. ~~(3-10-00)~~(____)

03. Bale. *Means* A mechanically compressed package of forage or straw bound by string or wire, or other binding material. ~~(7-1-94)~~(____)

~~**04. Bale Certification Inspection.** *Means* inspection of forage or straw which has been baled prior to inspection.~~ ~~(3-10-00)~~

054. Bale Tag. *Means* A tag or label which is attached to the string or wire, or other binding material of a bale of certified forage or straw, and identifies the bale as being certified noxious weed free. ~~(3-10-00)~~(____)

065. Certificate of Inspection. *Means* A record of inspection issued by an approved inspector that states the results of a field or commodity inspection. The certificate shall document that the inspected field or commodity is Idaho state noxious weed free, ~~regional noxious weed free,~~ North American Noxious Weed Free, or that the field or commodity contains noxious weeds. ~~(3-10-00)~~(____)

~~**076. Certification.** *Means* The process whereby an approved inspector conducts field or commodity inspections to determine that the field or commodity is noxious weed free.~~ ~~(3-10-00)~~(____)

07. Certification Markings. Bale tags, blue and orange colored twine, compressed forage bale binding material, and forage cubes/pellets container tags/labels. (____)

08. Certified Compressed Forage Bale Binding Material. *Means* An ISDA approved binding material which is attached to a compressed forage bale of certified noxious weed free forage and identifies the bale as being certified as North American Noxious Weed Free. ()

09. Compressed Forage Bale. *Means* A bale that has been twice compressed, once in the field by a forage baler and then recompressed a second time and bound by string, wire or other binding material. ()

~~08~~**10.** Department. *Means* The Idaho State Department of Agriculture. (7-1-94)()

~~09~~**11.** Field. *Means* The land on which a forage or straw crop is grown and is not divided by streams, public roads, other crops, or other barriers. (3-10-00)()

102. Field Certification Inspection. *Means* An on-site inspection of forage or straw in the field, and areas adjacent to the field, for the presence of noxious weeds. The inspection shall be conducted prior to cutting or harvesting. (3-10-00)()

143. Forage. *Means* Alfalfa, grain, and grass hay, and/or combinations of alfalfa, grain, or grass hay; the term "forage" includes forage cubes, compressed forage bales, and pellets. (3-10-00)()

124. Forage Cubes. *Means* Forage that is harvested from a field certified to North American Standards and is mechanically compacted into wafers or cubes. (3-10-00)()

15. Forage Cube/Pellet Tag. *Means* A tag or label which is attached to a container of certified noxious weed free forage cubes or pellets, and identifies the container as being certified as North American Noxious Weed Free. ()

156. Idaho State Noxious Weed Free. *Means* Forage and straw inspected for weeds designated by the director as noxious as defined in Section 22-2402(915), Idaho Code, and determined to be free of such weeds. (3-10-00)()

17. Idaho State Noxious Weed Free Standards. Forage and straw that meets the requirements Idaho State Noxious Weed Free. ()

168. ~~Regional Noxious Weed Free~~ North American Noxious Weed Free. *Means* Forage and straw inspected for, and determined to be free of, weeds designated as noxious by ~~states participating in a regional noxious weed free forage and straw certification program, including but not limited to the following: Colorado, Idaho, Montana, Utah, and Wyoming~~ the director as defined in Section 22-2402(15) Idaho Code and noxious weeds listed on the North American Weed List. (3-10-00)()

179. North American Weed Free Forage Certification Program. The North American Weed Management Association standard for forage certification. ()

20. North American Twine. Blue and orange colored twine that is used to mark bales as certified to the North American Weed Free Forage Standard. ()

21. North American Standards. Requirements of the North American Weed Free Forage Certification Program. ()

~~13~~**22.** Noxious Weed Free. *Means* No noxious weeds with viable seed, injurious portions, or propagating parts were found during inspection procedures. (3-10-00)()

~~14~~**23.** Official Sample. *Means* A sample taken by an approved inspector. (3-10-00)()

24. Pellets. Forage that is harvested from a field certified to North American Standards and is manufactured into an agglomerated feed, formed by compacting and forcing through die openings by a mechanical process. ()

~~1725.~~ **Straw.** *Means* The dried stalks or stems remaining after grain is harvested. (7-1-94)()

~~1826.~~ **Transit Certificate.** *Means* A document completed by an approved inspector to authorize the movement of noxious weed free certified forage bales or straw bales into or through areas which require noxious weed free forage and straw certification. The transit certificate must be in the possession of the transporter. If individual bales are tagged with an approved bale tag, a transit certificate is not required. (3-10-00)()

Subsections 100.03, 100.04.a.iii., 100.06.c., 100.06.i.ii., 100.06.l., 100.07.b., 100.07.b.iv., 100.07.b.v., 100.07d. 100.12.c. and 100.12.d., and 100.14

100. VOLUNTARY NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION PROGRAM.

03. Certification Training. The department shall determine minimum training and accreditation standards for approved inspectors. Training will be provided annually by the department or its agent. ~~Approved inspectors must be re-accredited annually.~~ Attendance at annual training will certify accreditation for the inspector for that calendar year. Approved inspectors will be issued a certificate of training for the calendar year. Annual training shall include: (3-10-00)()

04. Certification Program. (3-10-00)

a. The department or its agent shall: (3-10-00)

iii. Issue certificates of inspection, transit certificates, North American Twine, forage cubes/pellets tags/labels, certified compressed forage bail binding material, and bale tags to qualifying participants; (3-10-00)()

06. Field Inspection Procedures. (7-1-94)

c. Field inspections must take place prior to any ~~cultural~~ operation that will limit the approved inspector's ability to properly inspect and certify the field. Fields that have been cut or harvested prior to inspection are ineligible for certification. (3-10-00)()

i. Forage which contains any noxious weeds as identified in Section 22-2402(15) or noxious weeds listed on the North American Noxious Weed List, may be certified if the following requirements are met: ()

i. Field upon which the forage was produced was treated to prevent seed formation or seed ripening to the degree that there is no danger of dissemination of the seed, or any injurious portion thereof from such noxious weeds, or undesirable plant species, or the propagating parts of the plant are not capable of producing a new plant; ()

ii. Noxious weed(s) were treated not later than rosette to bud stage, or boot stage for grass species classified as noxious weeds, prior to cutting or harvesting; and ()

l. Interstate shipment of baled forage and straw shall be accompanied by an original transit certificate issued by the approved inspector in the county of origin. The storage area shall also be inspected and shall be free of noxious weeds. ()

097. Certification Standards. After completing an inspection, the approved inspector shall complete a

certificate of inspection. (3-10-00)

b. If the field or commodity inspected is certified as noxious weed free, as defined in these rules, the approved inspector may also issue, upon request, any of the following documents: (3-10-00)()

iv. Forage cube/pellet tag/labels only if the field or commodity is certified as North American Noxious Weed Free. ()

v. Certified compressed forage bale binding material only if the field or commodity is certified as North American Noxious Weed Free. ()

d. Certificates of inspection, transit certificates, North American Twine, North American Noxious Weed Free Forage cubes/pellets tags/labels, certified compressed forage bale binding material, and bale tags ~~will be available~~ must be purchased from the department or its agent. (3-10-00)()

142. Post-Certification and Distribution Requirements. After a producer's commodity has been inspected and certified, the producer, ~~distributor, or other responsible party~~ shall: (3-10-00)()

c. Attach bale tags, certified compressed foliage bail binding material, or North American Twine to each bale of certified forage or straw intended for sale as noxious weed free forage or straw prior to the bales leaving the producers stack yard or storage area; and (3-10-00)()

d. Attach cube/pellet tag/label to each container of certified forage cubes/pellets intended for sale as noxious weed free forage prior to the containers leaving the producer's facility. ()

de. Provide the shipper, trucker, or transporter with the appropriate number of transit certificates. (3-10-00)

164. Enforcement and Cancellation. Harvested lots of forage or straw from certified fields may be checked at any time by an certification approved inspector. Manufactured lots of forage cubes, pellets, and compressed forage bales may be checked at any time by an approved inspector. Evidence that forage, ~~or~~ straw, ~~is~~ forage cubes/pellets, or compressed forage bales are not from an inspected certified field or that any lot has not been protected from contamination shall be cause for cancellation of certification. (3-10-00)()

Section 200 - Entire Section

200. APPLICATION FORM REQUIREMENTS.

A person wishing to participate in the noxious weed free forage and straw program shall make an application for NWFF&S certification annually. There are no fees for application. The application shall be made with the ISDA agent in the county in which the person resides or in the county in which the person owns or leases land on which forage will be produced. The request for application shall be made in writing on application forms prescribed by ISDA. ()

Subsection 250.03.b. and 250.04

250. CERTIFICATION MARKING.

Each certified bale or container shall be marked by one (1) of the following: ()

03. Forage Cube/Pellet Tag/Label. Certification tags/labels shall be attached to or a statement with the following information shall be printed on each container of noxious weed free product: ()

b. ISDA forage manufacturer identification number: ()

04. Certified Compressed Forage Bale Binding Material. The following information shall be printed in blue ink on orange binding material. ()

a. The words "North American Weed Free Forage Certification Program": ()

b. ISDA forage manufacturer identification number: ()

c. ISDA emblem: ()

d. ISDA telephone number; and ()

e. A statement that the product is "Certified to the North American Standards." ()

Section 300 - Entire Section

300. PROCEDURES FOR CERTIFICATION OF FORAGE CUBES/PELLETS/COMPRESSED FORAGE BALES.

01. Application. A person desiring to certify forage cubes/pellets/compressed forage bales as noxious weed free must make an annual application on the ISDA's forage cube/pellet/compressed forage bale certification application form. ()

02. Validity. The application shall be valid from the date of Department approval through December 31 of that calendar year. ()

03. Equipment. Equipment shall be cleaned of any noxious weed *propagules* prior to processing forage for certification. ()

04. Purging. After cleaning equipment, a minimum of five hundred (500) pounds of certified forage must be purged through the entire system prior to processing *certified* forage cubes/pellets/compressed forage bales. The five hundred (500) pounds of forage used to eliminate any noxious weed seeds shall not be certified. ()

05. Documentation. A person who manufactures products referenced in Section 300 shall retain the following records for two (2) years: ()

a. All NWFF&S inspection certificates relating to the certified forage delivered to their manufacturing facility each calendar year. ()

b. Quantity of certified forage cubes/pellets/compressed forage bales processed each calendar year: ()

and

c. Quantity of non-certified forage cubes/pellets/compressed forage bales processed each calendar year. ()

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.33 - ORGANIC FOOD PRODUCTS RULES

DOCKET NO. 02-0633-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-1103 and 22-1106, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This change will update the incorporation by reference section to reflect the changes to 7 CFR part 205 National Organic Program, effective January 2006. The registration and certification deadlines will be changed to earlier dates in the year. The registration fees will be increased, a late registration fee will be established, and the organic gross sales fee graduated scale will have a cap. Outside certifying agencies and their Idaho clients will be required to register with the Department. The fee increases will allow the program to self-sustain and the deadline changes will increase the efficiency of the program.

Definition of Livestock has been changed at the recommendation of Legislative Services Office to reflect statutory language and to make typographical, transcriptional, and/or clerical corrections and are being published with this Notice of Rulemaking as part of the pending rule. A public hearing was held on October 12, 2006. No comments were received from the public.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 78 through 84.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 22-1106, Idaho Code.

The registration fees will be increased, a late registration fee of one hundred dollars (\$100) and a late producer certification fee of two hundred fifty dollars (\$250) will be established, and the organic gross sales fee graduated scale will have a cap of five thousand dollars (\$5,000).

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking does not have any negative fiscal impact on the state general fund. Raising the initial registration fees and establishing late registration fees will add approximately \$15,000 annually to the organic dedicated fund. The costs to the organic producer/handler will increase depending on the size of the organic operation.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Margaret Misner, Program Manager (208) 332-8620.

DATED this 15th day of November, 2006.

Phillip J. Bandy, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

DOCKET NO. 02-0633-0601 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 78 through 84.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 02-0633-0601

Subsection 010.08

010. DEFINITIONS.

~~058.~~ **Livestock.** Cattle, swine, sheep, goats, ratites, domestic cervidae and bison. (4-2-03)

Subsections 100.02 and 100.04

100. ~~RECERTIFICATION~~ EDUCATIONAL ACTIVITY REQUIREMENTS.

02. Request for Approval. A producer or handler who intends to attending an ~~seminar~~ educational activity, that is either in or out of state, or the organizer of an ~~seminar~~ educational activity, shall submit to the department a request for approval of ~~a seminar~~ the educational activity not less than thirty (30) days prior to the scheduled ~~seminar~~ educational activity. Such a request shall be submitted on a form prescribed by the department. Under exceptional circumstances, as described in writing by the producer or handler requesting approval, the thirty (30) day requirement may be waived. (~~4-2-03~~)()

04. Official Approval. Official approval shall be given only for those ~~seminars~~ educational activities that deal with: (~~4-2-03~~)()

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.41 - RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

DOCKET NO. 02-0641-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-2204, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This change will update the incorporation by reference section to reflect the 2006 edition of the Official Publication of the Association of American Plant Food Control Officials (AAPFCO), published in January or February each year. This is a standard reference manual for fertilizer control officials for the registration of fertilizers.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 5, 2006 Idaho Administrative Bulletin, Vol. 06-7, pages 22 and 23.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Bureau Chief or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 9th day of November, 2006.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

DOCKET NO. 02-0612-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-7, July 5, 2006, pages 22 and 23.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-1501 through 33-1512 and 33-1006, Idaho Code.

DESCRIPTIVE SUMMARY: The following summarizes changes between the proposed rule and the pending rule and provides rationale for the change.

1. Clarified language related to school bus paint color (SISBO – Color, page 20) – for standardizing coloring schemes, which allows for new technology in manufacture painting and the use of anodized aluminum window and door glass frames.
2. Modified reimbursement/non-reimbursement matrix to reflect suggested changes by School Districts and Transportation Steering Committee:
 - * Changed effective date from July 1, 2005 to July 1, 2007;
 - * Changed transportation building cleaning salaries from reimbursable to non-reimbursable; subsequent to steering committee input;
 - * Changed “mobile” radios to “portable” radios;
 - * Clarified reimbursement CPR/First-aid training to \$10 per year per tech/driver;
 - * Removed \$550 limit on property insurance premium; subsequent to input from insurance companies and State Risk Management;
 - * Re-categorized or re-located various reimbursable/non-reimbursable items (had no fiscal affect).

Subsequent to the Proposed Rulemaking process, which included two public hearings, the State Board of Education adopted the pending rule and approved the referenced document, Standards for Idaho School Buses and Operations November 1, 2006, and the accompanying Pupil Transportation Reimbursement Matrix.

The approval date of the referenced document (Standards for Idaho School Buses and Operations) changed from June 16, 2006 to November 1, 2006. The complete text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Vol. 06-8, pages 84 through 86.

FISCAL IMPACT: The Following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. N/A

ASSISTANCE ON TECHNICAL QUESTIONS - OBTAINING COPIES: For assistance on technical questions concerning the pending rule or to obtain a copy of the approved rule by reference document (Standards for Idaho School Buses and Operations and the Pupil Transportation Reimbursement Matrix), contact Ray Merial, State Department of Education, Finance and Transportation, P.O. Box 83720, Boise, Idaho, (208) 332-6851 or fax to (208) 334-3484.

DATED this 1st day of November, 2006.

Karen Echeverria, Deputy Director
Idaho State Board of Education
650 West State Street
PO Box 83720, Boise, Idaho 83720-0027
Phone: (208) 332-1567 - (208) 334-2632

DOCKET NO. 08-0202-0601 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 84 through 86.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0202-0601

Subsection 004.03

004. INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates into its rules:

(4-5-00)

03. Incorporated Document. The Standards for Idaho School Buses and Operations as approved on ~~August 13, 2004~~ November 1, 2006. ~~(4-6-05)~~(_____)

Section 150

150. TRANSPORTATION.

Minimum School Bus Construction Standards. All new school bus chassis and bodies must meet or exceed Standards for Idaho School Buses and Operations as approved on ~~August 13, 2004~~ November 1, 2006, as authorized in Section 33-1511, Idaho Code. ~~(4-6-05)~~(_____)

Subsection 160.01

160. MAINTENANCE STANDARDS AND INSPECTIONS.

01. Safety. School buses will be maintained in a safe operating condition at all times. Certain equipment or parts of a school bus that are critical to its safe operation must be maintained at prescribed standards. When routine maintenance checks reveal any unsafe condition identified in the Standards for Idaho School Buses and Operations as approved on ~~August 13, 2004~~ November 1, 2006, the school district will eliminate the deficiency before returning the vehicle to service. ~~(4-6-05)~~(_____)

Section 170

170. SCHOOL BUS DRIVERS AND VEHICLE OPERATION.

All school districts and school bus drivers must meet or exceed the training, performance and operation requirements delineated in the Standards for Idaho School Buses and Operations as approved on ~~August 13, 2004~~ November 1, 2006.

2006. (Section 33-1508; 33-1509, Idaho Code)

~~(4-6-05)~~(____)

Section 190

190. PROGRAM OPERATIONS.

School district fiscal reporting requirements as well as reimbursable and non-reimbursable costs within the Pupil Transportation Support Program, including but not limited to administration, field and activity trips, safety busing, contracting for transportation services, leasing of district-owned buses, insurance, ineligible and non-public school students, ineligible vehicles, capital investments including the purchasing of school buses and equipment, program support and district waiver procedures shall be delineated in Standards for Idaho School Buses and Operations as approved on ~~August 13, 2004~~ November 1, 2006. (Section 33-1006, Idaho Code)

~~(4-6-05)~~(____)

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0602

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105, 33-116, 33-118, and 33-1612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The Gifted and Talented Programs section of rule (08.02.03.999) was inadvertently deleted when the proposed rule for Idaho Content Standards (08.02.03.004) was drafted. It has been put back in since the Gifted and Talented Programs rule is unrelated to the rule on Idaho Content Standards.

The pending rule is being adopted as amended and noted in the previous paragraph. The complete text of the proposed rule for the Idaho Content Standards with the rule for Gifted and Talented deleted was published in the June 7, 2006 Idaho Administrative Bulletin, Vol. 06-6, pages 59 through 91.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Val Schorzman (332-6920) or Dr. Patricia Toney (332-6938).

DATED 15th day of November, 2006.

Karen Echeverria
Deputy Director
Idaho State Board of Education
650 W. State Street
PO Box 83720
Boise, ID 83720-0027
Phone: (208) 332-1567
Fax: (208) 334-2632

DOCKET NO. 08-0203-0602 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-6, June 7, 2006, pages 59 through 91.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

217. -- 9998. (RESERVED).

999. GIFTED AND TALENTED PROGRAMS.

01. Definitions. The following definitions apply only to Section 999 of these rules. ()
- a. Department. State Department of Education. ()
- b. District. Local school district. ()
- c. Gifted/talented children. Those students who are identified as possessing demonstrated or potential abilities that give evidence of high performing capabilities in intellectual, creative, specific academic or leadership areas, or ability in the performing or visual arts and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities Section 33-2001, Idaho Code. ()
- d. Governing gifted and talented educational requirements. Sections 33-201, 33-2001, 33-2003, Idaho Code. ()
02. Legal Compliance. The State Department of Education and districts shall comply with all governing gifted and talented education requirements. ()
03. District Plan. Each school district shall develop and write a plan for its gifted and talented program. The plan shall be submitted to the Department no later than October 15, 2001. The plan shall be updated and submitted every three (3) years thereafter and shall include: ()
- a. Philosophy statement. ()
- b. Definition of giftedness. ()
- c. Program goals. ()
- d. Program options. ()
- e. Identification procedures. ()
- f. Program evaluation. ()
04. Screening. The district's process for identifying gifted and talented students shall include the

following steps: ()

a. The district shall screen all potentially gifted and talented students to ensure they have an opportunity to be considered; and ()

b. The district shall assess those students meeting the screening criteria and gather additional information concerning their specific aptitudes and educational needs; and ()

c. The district shall match student needs with appropriate program options. ()

05. Assessment. Placement decisions shall not be determined by a single criterion (for instance, test scores, other measurement, teacher recommendation, or nomination). The district's identification process shall use multiple indicators of giftedness with information obtained through the following methods and sources: ()

a. Procedures for obtaining information about students shall include formal assessment methods, such as group and individual tests of achievement, general ability, specific aptitudes and creativity. ()

b. Procedures for obtaining information about students shall also include informal assessment methods, such as checklists, rating scales, pupil product evaluations, observations, nominations, biographical data, questionnaires, interviews and grades. ()

c. Information about students shall be obtained from multiple sources, such as teachers, counselors, peers, parents, community members, subject area experts, and the students themselves. ()

06. Administration. The district shall designate a certificated staff person to be responsible for development, supervision, and implementation of the gifted and talented program. ()

DAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0607

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 33-105, 33-116, 33-118, and 33-1612, Idaho Code and ESEA No Child Left Behind.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Over the past few years more emphasis has been placed on standards and the alignment of standards to the state assessment in order to meet the intent of the Individuals with Disabilities Act (IDEA) and No Child Left Behind Act (NCLB). One of the requirements of NCLB is to ensure students with significant cognitive disabilities meet proficiency on rigorous state content standards. This was accomplished through aligning the Alternative Assessment Extended Content Standards with the Idaho Content Standards, setting of appropriate cut scores, and implementing the Alternative Assessment Extended Achievement Standards. The alignment process was coordinated by the State Department of Education Bureau of Special Populations and included input from teachers, administrators, and higher education representatives.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) b, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with federal law, specifically NCLB and IDEA 2004.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking is non-controversial in nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dr. Mary Bostick (332-6917).

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 24, 2007.

DATED this November 15, 2006.

Karen Echeverria
Deputy Director
Idaho State Board of Education
650 W. State Street
PO Box 83720
Boise, ID 83720-0027
Phone: (208) 332-1567
Fax: (208) 334-2632

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-0607

004. INCORPORATION BY REFERENCE.

The following documents are incorporated into this rule: (2-23-06)T

01. The Idaho Content Standards. The Idaho Content Standards as adopted by the State Board of Education on November 1, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (11-1-06)T

02. The Idaho English Language Development Standards. The Idaho English Language Development Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/lep/index.asp>. (8-10-06)T

03. The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures. The Limited English Proficiency Program Annual Measurable Achievement Objectives and Accountability Procedures as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/lep/index.asp>. (8-10-06)T

04. The Idaho English Language Assessment (IELA) Achievement Standards. The Idaho English Language Assessment (IELA) Achievement Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/lep/index.asp>. (11-1-06)T

05. The Idaho Standards Achievement Tests (ISAT) Achievement Standards. Achievement Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (11-1-06)T

06. The Idaho Alternative Assessment Extended Content Standards. The Idaho Alternative Assessment Extended Content Standards as adopted by the State Board of Education on April 20, 2006. Copies of the document can be found at the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (11-1-06)T

07. The Idaho Alternative Assessment Extended Achievement Standards. Alternative Assessment Extended Achievement Standards as adopted by the State Board of Education on April 20, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov/index.asp>. (11-1-06)T

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 26-3105(1)(e), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons given that this agency has adopted the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Administrative Bulletin, Volume 06-10, pages 156 through 158.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: The pending rule will have no negative impact on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions or for further information regarding this pending rule contact Anthony Polidori at (208) 332-8084.

DATED this 15th day of November, 2006.

Michael Larsen
Consumer Finance Bureau Chief
Idaho Department of Finance
800 Park Blvd., Suite 200
Boise, ID 83712
(208) 332-8000 Phone
(208) 332-8096 Fax

Mailing Address:
P.O. Box 83720
Boise, ID 83720-0031

DOCKET NO. 12-0110-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 156 through 158.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Amend the eligibility requirements for a Disabled Persons License to comply with statutory amendment (S 1385). Adopt eligibility requirements and permit conditions to implement the new 'children with special needs big game permit/tag' created by statutory amendment (S1381). Amend the outfitter allocation rule to clarify the allocation process and to address outfitter concerns. Clarify the Handicapped Archery Permit rule to address equipment concerns of handicapped archers. Delete the Southeast Idaho Nonresident Deer License/Tag rule because this hunt is now a controlled hunt.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 159 through 167.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 9th day of November, 2006.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707

DOCKET NO. 13-0104-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 159 through 167.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.05 - FISHING CONTESTS

DOCKET NO. 13-0105-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-901, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

To allow additional fishing contests on planted trout, to correct a procedural error which occurred two years ago when the Fishing Rules were last amended, to clarify certain definitions, and to make clerical corrections and updates.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 168 through 170.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Fred Partridge (208) 287-2773.

DATED this 9th day of November, 2006.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707

DOCKET NO. 13-0105-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 168 through 170.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), 36-408, and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Simplify the understanding of weapon type opportunities; address concerns of handicapped archers; implement new outfitter allocation; address elk depredations in eastern Idaho; add an additional unit (Unit 69) to the Motor Vehicle Restriction Rule; lengthen the controlled hunt application period for deer, elk, antelope, and fall black bear; and clarify and correct hunt descriptions.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 172 through 192.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Brad Compton (208) 287-2756.

DATED this 9th day of November, 2006.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707

DOCKET NO. 13-0108-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 172 through 192.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0109-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Require the wearing of hunter orange when hunting on Wildlife Management Areas where pheasants are stocked to address safety issues.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 194 and 195.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Don Kemner (208) 287-2748.

DATED this 9th day of November, 2006.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707

DOCKET NO. 13-0109-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 194 and 195.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-901, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Bi-annual rule review to address biological issues and angler desires, and to make the rules more easy to understand.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 198 through 204.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Fred Partridge (208) 287-2773.

DATED this 9th day of November, 2006.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0111-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 198 through 204.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.02 - RULES OF THE IDAHO EMERGENCY MEDICAL SERVICES (EMS) PHYSICIAN COMMISSION

DOCKET NO. 16-0202-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is February 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-1013A and 56-1017, Idaho Code, and House Bill 858 (2006).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Friday, April 13, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To best protect the public's health and safety, the newly-established EMS Physician Commission is proposing a new chapter of rules to regulate the scope of practice and medical supervision standards for EMS personnel in Idaho.

Currently, there are no scope of practice rules in effect since the rulemaking authority for the previously-existing EMS scope of practice rules was transferred from the Board of Medicine to the EMS Physician Commission by the 2006 Legislature. The Legislature gave the EMS Physician Commission this authority because EMS scope of practice issues have become increasingly complex and require the specialized knowledge and experience of physicians who are specialists in emergency medical care.

Since the old EMS scope of practice rules are no longer in effect, the EMS Physician Commission is establishing new rules to replace them and to comply with the current statutory requirements found in Section 56-1017, Idaho Code.

This new chapter of rules defines the standard operating procedures and practices that can be performed by those certified by the Department as EMS providers. The rules also define the required level of physician supervision for persons certified as EMS providers.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate since it is necessary for the protection of the public health, safety, or welfare.

FEE SUMMARY: There is no fee or charge being imposed or increased in this docket.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

There is no impact to the State General Fund as result of this rulemaking.

Revenue from the dedicated "Emergency Medical Services Fund" established in Section 56-1018, Idaho Code, will be utilized to conduct pilot programs and to produce policy and guideline documents related to this rulemaking. These costs are estimated at \$7,500. The EMS Physician Commission is funded entirely by receipts in accordance with Section 56-1013A(6), Idaho Code, that will fund the costs of rulemaking. Idaho licensed EMS agencies may continue to incur costs associated with complying with the rules promulgated by the EMS Physician Commission; these costs are commensurate with the historical costs associated with rulemaking by the Board of Medicine.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted

because the new chapter was developed by the newly-authorized Emergency Medical Services (EMS) Physician Commission. The EMS Physician Commission is itself a representative body of emergency medicine physicians and citizens with EMS experience from across the state. In developing the new chapter, the Commission had access to public input that was provided when the rule was going to be rewritten under the Idaho Board of Medicine.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dia Gainor at (208) 334-4000.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before April 27, 2007.

DATED this 15th day of November, 2006.

Sherri Kovach
Program Supervisor
DHW - Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720, Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0202-0701

IDAPA 16
TITLE 02
CHAPTER 02

16.02.02 - RULES OF THE IDAHO EMERGENCY MEDICAL SERVICES PHYSICIAN COMMISSION

000. LEGAL AUTHORITY.

Under Sections 56-1013A and 56-1017, Idaho Code, the Idaho Emergency Medical Services (EMS) Physician Commission is authorized to promulgate these rules for the purpose of establishing standards for scope of practice and medical supervision for certified personnel, ambulance services, and non-transport agencies licensed by the Department of Health and Welfare. (2-1-07)T

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (2-1-07)T

02. Scope. The scope of these rules is to define the allowable scope of practice, acts, and duties that can be performed by persons certified as emergency medical services personnel by the Department of Health and Welfare Emergency Medical Services (EMS) Bureau and to define the required level of supervision by a physician. (2-1-07)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (2-1-07)T

003. ADMINISTRATIVE APPEALS AND INVESTIGATIONS.

01. Administrative Appeals. Provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," govern administrative appeals. (2-1-07)T

02. Physician Complaint Investigations. The provisions of IDAPA 22.01.14, "Rules Relating to Complaint Investigation," govern investigation of complaints regarding physicians. (2-1-07)T

03. EMS Personnel and EMS Agency Complaint Investigations. The provisions of IDAPA 16.02.03, "Rules Governing Emergency Medical Services," govern investigation of complaints regarding certified EMS personnel and EMS Agencies. (2-1-07)T

004. INCORPORATION BY REFERENCE.

The Idaho Emergency Medical Services (EMS) Physician Commission has adopted the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2007-1, and hereby incorporates this Standards Manual by reference. Copies of the manual may be obtained from the EMS Bureau located at 590 W. Washington Street, Boise, Idaho, 83702, whose mailing address is P.O. 83720, Boise, Idaho 83720-0036. (2-1-07)T

005. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS - TELEPHONE -- WEBSITE.

The Idaho Emergency Medical Services (EMS) Physician Commission is administered by the EMS Bureau central office located in Boise Idaho. (2-1-07)T

01. Office Hours. Office hours of the Idaho Department of Health and Welfare, and the EMS Bureau are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (2-1-07)T

02. Mailing Address. (2-1-07)T

a. The mailing address for the business office is: EMS Bureau, P.O. Box 83720, Boise, Idaho 83720-0036. (2-1-07)T

b. The mailing address for the Idaho EMS Physician Commission, unless otherwise indicated, is: Idaho EMS Physician Commission, P.O. Box 83720, Boise, Idaho 83720-0036. (2-1-07)T

03. Street Address. (2-1-07)T

a. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (2-1-07)T

b. The central office of the Idaho EMS Bureau is located at 590 West Washington Street, Boise, Idaho 83702. (2-1-07)T

04. Telephone and Facsimile. (2-1-07)T

a. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (2-1-07)T

b. The telephone number for the Idaho EMS Physician Commission and the Idaho EMS Bureau is (208) 334-4000. (2-1-07)T

c. The fax number for the Idaho EMS Physician Commission and the Idaho EMS Bureau is (208) 334-4015. (2-1-07)T

05. Internet Website. (2-1-07)T

a. The Department's internet website is found at: <http://www.healthandwelfare.idaho.gov>.

b. The Idaho EMS Physician Commission and the Idaho EMS Bureau website is found at: <http://www.idahoems.org>. (2-1-07)T
(2-1-07)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (2-1-07)T

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (2-1-07)T

03. EMS Complaints. The provisions of IDAPA 16.02.03, "Rules Governing Emergency Medical Services," govern the confidentiality of the investigation of complaints regarding certified EMS personnel. (2-1-07)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

In addition to the applicable definitions in Section 56-1012, Idaho Code, and IDAPA 16.02.03, "Rules Governing Emergency Medical Services," the following terms are used in this chapter as defined below: (2-1-07)T

01. Certification. A license issued by the EMS Bureau to an individual for a specified period of time indicating that minimum standards corresponding to one (1) of several levels of EMS proficiency have been met. (2-1-07)T

02. Certified EMS Personnel. Individuals who possess a valid certification issued by the EMS Bureau. (2-1-07)T

03. Credentialed EMS Personnel. Individuals who are authorized to provide medical care by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (2-1-07)T

04. Credentialing. The local process by which certified EMS personnel are authorized to provide medical care in the out-of-hospital, hospital, and medical clinic setting, including the determination of a local scope of practice. (2-1-07)T

05. Designated Clinician. A licensed Physician Assistant (PA) or Nurse Practitioner designated by the EMS medical director, hospital supervising physician, or medical clinic supervising physician who is responsible for direct (on-line) medical supervision of certified EMS personnel in the temporary absence of the EMS medical director. (2-1-07)T

06. Direct (On-Line) Supervision. Contemporaneous instructions and directives about a specific patient encounter provided by a physician or designated clinician to certified EMS personnel who are providing medical care. (2-1-07)T

07. Emergency Medical Services (EMS). The services utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. (2-1-07)T

08. Emergency Medical Services (EMS) Bureau. The Emergency Medical Services (EMS) Bureau of the Idaho Department of Health and Welfare. (2-1-07)T

09. Emergency Medical Services (EMS) Physician Commission. The Idaho Emergency Medical Services Physician Commission as created under Section 56-1013A, Idaho Code, hereafter referred to as "the Commission." (2-1-07)T

10. EMS Agency. An organization licensed by the EMS Bureau to provide emergency medical services in Idaho. (2-1-07)T

11. EMS Medical Director. A physician who supervises the medical activities of certified personnel affiliated with an EMS agency. (2-1-07)T

12. Hospital. A facility in Idaho licensed under Sections 39-1301 through 39-1314, Idaho Code, and defined in Section 39-1301(a)(1), Idaho Code. (2-1-07)T

13. Hospital Supervising Physician. A physician who supervises the medical activities of certified EMS personnel while employed or utilized for delivery of services in a hospital. (2-1-07)T

14. Indirect (Off-Line) Supervision. The medical supervision, provided by a physician, to certified EMS personnel who are providing medical care including EMS system design, education, quality management, patient care guidelines, medical policies, and compliance. (2-1-07)T

15. Medical Clinic. A place devoted primarily to the maintenance and operation of facilities for outpatient medical, surgical, and emergency care of acute and chronic conditions or injury. (2-1-07)T

16. Medical Clinic Supervising Physician. A physician who supervises the medical activities of certified EMS personnel while employed or utilized for delivery of services in a medical clinic. (2-1-07)T

17. Medical Supervision. The advice and direction provided by a physician, or under the direction of a physician, to certified EMS personnel who are providing medical care, including direct and indirect supervision. (2-1-07)T

18. Medical Supervision Plan. The written document describing the provisions for medical supervision of certified EMS personnel. (2-1-07)T

19. Nurse Practitioner. An Advanced Practice Professional Nurse, licensed in the category of Nurse Practitioner, as defined in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (2-1-07)T

20. Out-of-Hospital. Any setting outside of a hospital, including inter-facility transfers, in which the provision of emergency medical services may take place. (2-1-07)T

21. Physician. A person who holds a current active license issued by the Board of Medicine to practice medicine and surgery or osteopathic medicine or surgery in Idaho and is in good standing with no restriction upon, or actions taken against, his license. (2-1-07)T

22. Physician Assistant. A person who meets all the applicable requirements to practice as a licensed physician assistant under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants." (2-1-07)T

011. -- 094. (RESERVED).

095. GENERAL PROVISIONS.

01. Practice of Medicine. This chapter does not authorize the practice of medicine or any of its branches by a person not licensed to do so by the Board of Medicine. (2-1-07)T

02. Patient Consent. The provision or refusal of consent for individuals receiving emergency medical services is governed by Title 39, Chapter 43, Idaho Code. (2-1-07)T

03. System Consistency. All EMS medical directors, hospital supervising physicians, and medical clinic supervising physicians must collaborate to ensure EMS agencies and certified EMS personnel have protocols, policies, standards of care, and procedures that are consistent and compatible with one another. (2-1-07)T

096. -- 099. (RESERVED).

100. GENERAL DUTIES OF EMS PERSONNEL.

- 01. General Duties.** General duties of EMS personnel include the following: (2-1-07)T
- a.** Certified EMS personnel must possess valid certification issued by the EMS Bureau equivalent to or higher than the scope of practice authorized by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (2-1-07)T
 - b.** Certified EMS personnel must not provide patient care beyond the scope of practice as defined by the Commission. (2-1-07)T
 - c.** Certified EMS personnel must only provide patient care for which they have been trained, based on curricula or specialized training approved according to IDAPA 16.02.03, "Rules Governing Emergency Medical Services." (2-1-07)T
 - d.** Certified EMS personnel must not perform a task or tasks within their scope of practice that have been specifically prohibited by their EMS medical director, hospital supervising physician, or medical clinic supervising physician. (2-1-07)T
 - e.** Certified EMS personnel that possess a valid credential issued by the EMS medical director, hospital supervising physician, or medical clinic supervising physician are authorized to provide services when representing an Idaho EMS agency, hospital, or medical clinic and under any one (1) of the following conditions: (2-1-07)T
 - i.** When part of a documented, planned deployment of personnel resources approved by the EMS medical director, hospital supervising physician, or medical clinic supervising physician; or (2-1-07)T
 - ii.** When, in a manner approved by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, administering first aid or emergency medical attention in accordance with Section 5-330 or 5-331, Idaho Code, without expectation of remuneration; or (2-1-07)T
 - iii.** When participating in a training program approved by the EMS Bureau, the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (2-1-07)T
- 02. Scope of Practice.** (2-1-07)T
- a.** The Commission maintains an "EMS Physician Commission Standards Manual" that: (2-1-07)T
 - i.** Establishes the scope of practice of certified EMS personnel; and (2-1-07)T
 - ii.** Specifies the type and degree of medical supervision for specific skills, treatments, and procedures by level of EMS certification. (2-1-07)T
 - b.** The Commission will consider the United States Department of Transportation's National EMS Scope of Practice Model when preparing or revising the standards manual described in Subsection 100.02.a. of this rule; (2-1-07)T
 - c.** The scope of practice established by the EMS Physician Commission determines the objectives of applicable curricula and specialized education of certified EMS personnel. (2-1-07)T
 - d.** The scope of practice does not define a standard of care, nor does it define what should be done in a given situation; (2-1-07)T
 - e.** Certified EMS personnel must not provide emergency medical services that exceed the scope of practice established by the Commission; (2-1-07)T

f. Certified EMS personnel must be credentialed by the EMS medical director, hospital supervising physician, or medical clinic supervising physician to be authorized for their scope of practice; (2-1-07)T

g. The credentialing of certified EMS personnel affiliated with an EMS agency, in accordance with IDAPA 16.02.03, "Rules Governing Emergency Medical Services," must not exceed the licensure level of that EMS agency; and (2-1-07)T

h. The patient care provided by certified EMS personnel must conform to the Medical Supervision Plan as authorized by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (2-1-07)T

101. -- 199. (RESERVED).

200. EMS MEDICAL DIRECTOR, HOSPITAL SUPERVISING PHYSICIAN, AND MEDICAL CLINIC SUPERVISING PHYSICIAN QUALIFICATIONS.

The EMS Medical Director, Hospital Supervising Physician, and Medical Clinic Supervising Physician must: (2-1-07)T

01. Accept Responsibility. Accept responsibility for the medical direction and medical supervision of the activities provided by certified EMS personnel. (2-1-07)T

02. Maintain Knowledge of EMS Systems. Obtain and maintain knowledge of the contemporary design and operation of EMS systems. (2-1-07)T

03. Maintain Knowledge of Idaho EMS. Obtain and maintain knowledge of Idaho EMS laws, regulations, and standards manuals. (2-1-07)T

201. -- 299. (RESERVED).

300. EMS MEDICAL DIRECTOR, HOSPITAL SUPERVISING PHYSICIAN, AND MEDICAL CLINIC SUPERVISING PHYSICIAN RESPONSIBILITIES AND AUTHORITY.

01. Documentation of Written Agreement. The EMS medical director must document a written agreement with the EMS agency to supervise certified EMS personnel and provide such documentation to the EMS Bureau annually or upon request. (2-1-07)T

02. Approval for EMS Personnel to Function. (2-1-07)T.

a. The explicit approval of the EMS medical director, hospital supervising physician, or medical clinic supervising physician is required for certified EMS personnel under his supervision to provide medical care. (2-1-07)T

b. The EMS medical director, hospital supervising physician, or medical clinic supervising physician may credential certified EMS personnel under his supervision with a limited scope of practice relative to that allowed by the EMS Physician Commission. (2-1-07)T

03. Restriction or Withdrawal of Approval for EMS Personnel to Function. (2-1-07)T

a. The EMS medical director, hospital supervising physician, or medical clinic supervising physician can restrict the scope of practice of certified EMS personnel under his supervision when such personnel fail to meet or maintain proficiencies established by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, or the Idaho EMS Bureau. (2-1-07)T

b. The EMS medical director, hospital supervising physician, or medical clinic supervising physician can withdraw approval of certified EMS personnel to provide services, under his supervision, when such personnel fail to meet or maintain proficiencies established by the EMS medical director, hospital supervising physician, or

medical clinic supervising physician, or the EMS Bureau. (2-1-07)T

c. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must report in writing such restriction or withdrawal of approval within fifteen (15) days of the action to the EMS Bureau in accordance with Section 39-1393, Idaho Code. (2-1-07)T

04. Review Qualifications of EMS Personnel. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must document the review of the qualification, proficiencies, and all other EMS agency, hospital, and medical clinic affiliations of EMS personnel prior to credentialing the individual. (2-1-07)T

05. Document EMS Personnel Proficiencies. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must document that the capabilities of certified EMS personnel are maintained on an ongoing basis through education, skill proficiencies, and competency assessment. (2-1-07)T

06. Develop and Implement a Performance Assessment and Improvement Program. The EMS medical director must develop and implement a program for continuous assessment and improvement of services provided by certified EMS personnel under their supervision. (2-1-07)T

07. Review and Update Procedures. The EMS medical director must review and update protocols, policies, and procedures at least every two (2) years. (2-1-07)T

08. Develop and Implement Plan for Medical Supervision. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must develop, implement and oversee a plan for supervision of certified EMS personnel as described in Subsection 400.06 of these rules. (2-1-07)T

09. Access to Records. The EMS medical director must have access to all relevant agency, hospital, or medical clinic records as permitted or required by statute to ensure responsible medical supervision of certified EMS personnel. (2-1-07)T

301. -- 399. (RESERVED).

400. PHYSICIAN SUPERVISION IN THE OUT-OF-HOSPITAL SETTING.

01. Medical Supervision Required. In accordance with Section 56-1011, Idaho Code, certified EMS personnel must provide emergency medical services under the supervision of a designated EMS medical director. (2-1-07)T

02. Designation of EMS Medical Director. The EMS agency must designate a physician for the medical supervision of certified EMS personnel affiliated with the EMS agency. (2-1-07)T

03. Delegated Medical Supervision of EMS Personnel. The EMS medical director can designate other physicians to supervise the certified EMS personnel in the temporary absence of the EMS medical director. (2-1-07)T

04. Direct Medical Supervision by Physician Assistants and Nurse Practitioners. The EMS medical director can designate Physician Assistants (PA) and Nurse Practitioners for purposes of direct medical supervision of certified EMS personnel under the following conditions: (2-1-07)T

a. A designated physician is not present in the anticipated receiving health care facility; and (2-1-07)T

b. The Nurse Practitioner, when designated, must have a preexisting written agreement with the EMS medical director describing the role and responsibilities of the Nurse Practitioner; or (2-1-07)T

c. The physician supervising the PA, as defined in IDAPA 22.01.14, "Rules Relating to Complaint Investigation," authorizes the PA to provide direct (on-line) supervision; and (2-1-07)T

d. The PA, when designated, must have a preexisting written agreement with the EMS medical director describing the role and responsibilities of the PA related to supervision of EMS personnel. (2-1-07)T

e. Such designated clinician must possess and be familiar with the medical supervision plan, protocols, standing orders, and standard operating procedures authorized by the EMS medical director. (2-1-07)T

05. Indirect Medical Supervision by Non-Physicians. Non-physicians can assist the EMS medical director with indirect medical supervision of certified EMS personnel. (2-1-07)T

06. Medical Supervision Plan. The medical supervision of certified EMS personnel must be provided in accordance with a documented medical supervision plan that includes direct, indirect, on-scene, educational, and proficiency standards components. The EMS medical director is responsible for developing, implementing, and overseeing the medical supervision plan that must consist of the following elements: (2-1-07)T

- a.** Certified EMS personnel credentialing that includes all of the following: (2-1-07)T
 - i.** EMS Bureau certification; (2-1-07)T
 - ii.** Affiliation to the EMS agency; (2-1-07)T
 - iii.** An EMS agency orientation as prescribed by the EMS agency that includes: (2-1-07)T
 - (1) EMS agency policies; (2-1-07)T
 - (2) EMS agency procedures; (2-1-07)T
 - (3) Medical treatment protocols; (2-1-07)T
 - (4) Radio communications procedures; (2-1-07)T
 - (5) Hospital/facility destination policies; (2-1-07)T
 - (6) Other unique system features; and (2-1-07)T
 - iv.** Successful completion of an EMS agency evaluation. (2-1-07)T
- b.** Indirect (off-line) supervision that includes all of the following: (2-1-07)T
 - i.** Written standing orders and treatment protocols including direct (online) supervision criteria; (2-1-07)T
 - ii.** Initial and continuing education in addition to those required by the EMS Bureau; (2-1-07)T
 - iii.** Methods of assessment and improvement; (2-1-07)T
 - iv.** Periodic assessment of psychomotor skill proficiency; (2-1-07)T
 - v.** Provisions for medical supervision of and defining the patient care provided by certified EMS personnel who are present for a multiple or mass causality incident, disaster response, or other significant event involving response of certified EMS personnel; (2-1-07)T
 - vi.** Defining the response when certified EMS personnel discover a need for EMS while not on duty; (2-1-07)T
 - vii.** The credentialing of certified EMS personnel for emergency response; (2-1-07)T

- viii. The appropriate level of emergency response based upon dispatch information provided by the designated Public Safety Answering Point(s); (2-1-07)T
 - ix. Triage, treatment, and transport guidelines; (2-1-07)T
 - x. Scene management for multiple EMS agencies anticipated to be on scene concurrently; (2-1-07)T
 - xi. Criteria for determination of patient destination; (2-1-07)T
 - xii. Criteria for utilization of air medical services in accordance with IDAPA 16.02.03, "Rules Governing Emergency Medical Services," Section 415; (2-1-07)T
 - xiii. Policies and protocols for patient refusal, "treat and release," advanced directives by patients and physicians, determination of death and other predictable patient non-transport scenarios; (2-1-07)T
 - xiv. Criteria for cancellation or modification of EMS response; (2-1-07)T
 - xv. Equipment authorized for patient care; (2-1-07)T
 - xvi. Medical communications guidelines; and (2-1-07)T
 - xvii. Methods and elements of documentation of services provided by certified EMS personnel. (2-1-07)T
 - c.** Direct (on-line) supervision: (2-1-07)T
 - i. Is accomplished by concurrent communication with the EMS medical director, other physicians designated by the EMS medical director, or designated clinicians who must be available twenty-four (24) hours a day seven (7) days a week. (2-1-07)T
 - ii. The EMS medical director will develop and implement procedures in the event of on-scene supervision by: (2-1-07)T
 - (1) The EMS medical director or other physician(s) designated by the EMS medical director; (2-1-07)T
 - (2) A physician with a pre-existing relationship with the patient; and (2-1-07)T
 - (3) A physician with no pre-existing relationship with the patient who is present for the duration of treatment on scene or transportation. (2-1-07)T
 - iii. Direct supervision of certified EMS personnel by other persons is prohibited except in the manner described in the medical supervision plan. (2-1-07)T
 - d.** The EMS medical director in collaboration with the course medical director or course coordinator, will define standards of supervision and training for students of state-approved training programs placed for clinical practice and training. (2-1-07)T
- 07. Out-of-Hospital Medical Supervision Plan Filed with EMS Bureau.** The agency EMS medical director must file the medical supervision plan, including identification of the EMS medical director and any designated clinicians to the EMS Bureau in a form described in the standards manual. (2-1-07)T
- a.** The agency EMS medical director must inform the EMS Bureau of any changes in designated clinicians or the medical supervision plan within thirty (30) days of the change(s). (2-1-07)T
 - b.** The EMS Bureau must provide the Commission with the medical supervision plans annually and

upon request. (2-1-07)T

c. The EMS Bureau must provide the Commission with the identification of EMS Medical directors and designated clinicians annually and upon request. (2-1-07)T

401. -- 499. (RESERVED).

500. PHYSICIAN SUPERVISION IN HOSPITALS AND MEDICAL CLINICS.

01. Medical Supervision Required. In accordance with Section 56-1011, Idaho Code, certified EMS personnel must provide emergency medical services under the supervision of a designated hospital supervising physician or medical clinic supervising physician. (2-1-07)T

02. Level of Certification Identification. The certified EMS personnel employed or utilized for delivery of services within a hospital or medical clinic, when on duty, must at all times visibly display identification specifying their level of EMS certification. (2-1-07)T

03. Credentialing of Certified EMS Personnel in a Hospital or Medical Clinic. The hospital or medical clinic must maintain a current written description of acts and duties authorized by the hospital supervising physician or medical clinic supervising physician for credentialed EMS personnel and submit such descriptions upon request of the Commission or the EMS Bureau. (2-1-07)T

04. Notification of Employment or Utilization. The certified EMS personnel employed or utilized for delivery of services within a hospital or medical clinic must report such employment or utilization to the EMS Bureau within thirty (30) days of engaging such activity. (2-1-07)T

05. Designation of Supervising Physician. The hospital or medical clinic administration must designate a physician for the medical supervision of certified EMS personnel employed or utilized in the hospital or medical clinic. (2-1-07)T

06. Delegated Medical Supervision of EMS Personnel. The hospital supervising physician or medical clinic supervising physician can designate other physicians to supervise the certified EMS personnel during the periodic absence of the hospital supervising physician or medical clinic supervising physician. (2-1-07)T

07. Direct Medical Supervision by Physician Assistants and Nurse Practitioners. The hospital supervising physician, or medical clinic supervising physician can designate Physician Assistants (PA) and Nurse Practitioners for purposes of direct medical supervision of certified EMS personnel under the following conditions: (2-1-07)T

a. The Nurse Practitioner, when designated, must have a preexisting written agreement with the hospital supervising physician or medical clinic supervising physician describing the role and responsibilities of the Nurse Practitioner; or (2-1-07)T

b. The physician supervising the PA, as defined in IDAPA 22.01.14, "Rules Relating to Complaint Investigation," authorizes the PA to provide supervision; and (2-1-07)T

c. The PA, when designated, must have a preexisting written agreement with the hospital supervising physician or medical clinic supervising physician describing the role and responsibilities of the PA related to supervision of EMS personnel. (2-1-07)T

d. Such designated clinician must possess and be familiar with the medical supervision plan, protocols, standing orders, and standard operating procedures authorized by the hospital supervising physician or medical clinic supervising physician. (2-1-07)T

08. On-Site Contemporaneous Supervision. Certified EMS personnel will only provide patient care with on-site contemporaneous supervision by the hospital supervising physician, medical clinic supervising physician, or designated clinicians. (2-1-07)T

09. Medical Supervision Plan. The medical supervision of certified EMS personnel must be provided in accordance with a documented medical supervision plan. The hospital supervising physician or medical clinic supervising physician is responsible for developing, implementing, and overseeing the medical supervision plan.
(2-1-07)T

501. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.08 - VITAL STATISTICS RULES

DOCKET NO. 16-0208-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-242, 39-5403, Idaho Code; HB 646 (2006) which modified Section 39-269, Idaho Code; and the Idaho Administrative Procedure Act (APA), Title 67, Chapter 52, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 210 through 216.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Greg Heitman, Sr. Field Coordinator (Vital Statistics Rules), Division of Health at (208) 334-5986.

DATED this 3rd day of November, 2006.

Sherri Kovach
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DOCKET NO. 16-0208-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 210 through 216.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.15 - IMMUNIZATION REQUIREMENTS FOR IDAHO SCHOOL CHILDREN

DOCKET NO. 16-0215-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-4801, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 6, 2006, Idaho Administrative Bulletin, Vol. 06-9, page 81 through 83.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dieuwke Spencer at (208) 334-5930.

DATED this 3rd day of November, 2006.

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DOCKET NO. 16-0215-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-9, September 6, 2006, page 81 through 83.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.01 - ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-0601 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202, 56-203, 56-209, 56-236, 56-237, 56-238, 56-239, 56-240, 56-242, 56-250, and 56-255, Idaho Code. These rule changes are being made to bring this chapter of rules into compliance with HB 776 (2006) - "Idaho Medicaid Simplification Act," SB1417 (2006), and HCR 50 (2006).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, page 103.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Linda Palmer at (208) 334-5845.

DATED this 15th day of November, 2006.

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DOCKET NO. 16-0301-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, page 103.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.01 - ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-0602

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2006, and October 1, 2006. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-202, 56-203, 56-209, 56-236, 56-237, 56-238, 56-239, 56-240, 56-242, 56-250, 56-253, 56-255, and 56-257, Idaho Code. These rule changes are being made to bring this chapter of rules into compliance with HB 776 (2006) - "Idaho Medicaid Simplification Act," SB1417 (2006), and HCR 50 (2006).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The amendments to these rules are the result of comments from the Centers for Medicare and Medicaid Services (CMS) on the Deficit Reduction Act (DRA) of 2005, the Legislative Services Office, public hearings and written comments during the comment period, and from within the Department. The following are specific changes made to the temporary and proposed rules:

1. Section 000 - Two additional legal authority cites were added as recommended by the Legislative Service Office.
2. Section 010 - A definition was added for "Children's Access Card", the definition for "Cost-Sharing" was changed to align with Idaho Code at the recommendation of the Legislative Service Office.
3. Section 011 - The definition for "Participant" was changed to align with Idaho Code and the definition for "Premium Assistance" was deleted.
4. Section 221 - This section was deleted and re-written based on new guidelines from CMS for U.S. Citizenship and Identity Documentation Requirements. Sections 222 - 228 were added to provide the different levels of documentation required by the DRA of 2005 to prove U.S. citizenship and identity.
5. Section 420 - The word "child" was added to this section based on federal regulation that states that an increase in child support income needs to be included in rule.
6. Section 523 - This section was revised to align with the Idaho State Medicaid Plan and addresses a child who is enrolled in a creditable health insurance plan or is a dependent of a state employee.
7. Sections 560-562 were added due to a lack of federal support in extending eligibility for the Children's Access Card program to children eligible for direct health coverage under Title XIX Medicaid. The age and income guidelines for the Children's Access Card program must be corrected. This change also aligns the rule with IDAPA 16.03.16, "Premium Assistance."

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the temporary and proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 104 through 132.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Linda Palmer at (208) 334-5845.

DATED this 15th day of November, 2006.

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DOCKET NO. 16-0301-0602 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 104 through 132.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0301-0602

Section 000

000. LEGAL AUTHORITY.

In accordance with Sections 56-202, 56-203, 56-209, 56-236, 56-237, 56-238, 56-239, 56-240, 56-242, 56-250, ~~and 56-253~~, 56-255, ~~and 56-257~~, Idaho Code, the Idaho Legislature has authorized the Department of Health and Welfare to adopt and enforce rules for the administration of Title XIX of the Social Security Act (Medicaid), Title XXI of the Social Security Act, and the Premium Assistance program. ~~(7-1-06)T~~(7-1-06)T

Subsections 010.06 through 010.23

010. DEFINITIONS (A THROUGH L).

For the purposes of these rules the following terms are used as defined below: (7-1-06)T

06. *Children's Access Card.* The Children's Access Card is a premium assistance program that pays a premium subsidy toward a private health insurance plan for children who choose to participate in the program.

(7-1-06)T

~~067.~~ **Cost-Sharing.** *A payment the participant is required to make toward the cost of their health care. A participant payment for a portion of Medicaid service costs such as deductibles, coinsurance, or co-payment amounts.* (10-1-06)T(10-1-06)T

~~078.~~ **Creditable Health Insurance.** Creditable health insurance is coverage that provides benefits for inpatient and outpatient hospital services and physicians' medical and surgical services. Creditable coverage excludes liability, limited scope dental, vision, specified disease or other supplemental-type benefits. (7-1-06)T

~~089.~~ **Department.** The Idaho Department of Health and Welfare. (7-1-06)T

~~0910.~~ **Disenrollment.** The end of an individual's participation in a health insurance program. (7-1-06)T

~~101.~~ **Eligibility.** The determination of whether or not an individual is eligible for health care benefits. (7-1-06)T

~~172.~~ **Enrollment.** The process of adding eligible individuals to a health care benefit. (7-1-06)T

~~123.~~ **Extended Medicaid.** Extended Medicaid is medical assistance for a parent or relative caretaker who becomes ineligible for Title XIX Medicaid due to an increase in child or spousal support payments. (7-1-06)T

~~134.~~ **Family Size.** Family size is the number of people living in the same home as the child. This includes relatives and other optional household members. (7-1-06)T

~~145.~~ **Federal Poverty Guidelines (FPG).** The federal poverty guidelines issued annually by the Department of Health and Human Services (HHS). (7-1-06)T

~~156.~~ **Health Assessment.** Health Assessment is an examination performed by a primary care provider in order to determine the appropriate health plan for a Medicaid-eligible individual. (7-1-06)T

~~167.~~ **Health Care Assistance (HCA).** Title XIX, Title XXI, or Premium Assistance benefits granted by the Department for persons or families under the authority of Title 56, Chapter 2, Idaho Code. (7-1-06)T

~~178.~~ **Health Insurance Premium Program (HIPP).** The Premium Assistance program in which Title XIX and Title XXI participants may participate. (7-1-06)T

~~189.~~ **Health Plan.** A set of health services paid for by Idaho Medicaid. (7-1-06)T

~~1920.~~ **Health Questionnaire.** A tool used to assist Health and Welfare staff in determining the correct Health Plan for the Medicaid applicant. (7-1-06)T

~~201.~~ **HUD.** The U.S. Department of Housing and Urban Development. (7-1-06)T

~~272.~~ **Liquid Assets.** Liquid assets include such things as cash, bank accounts, proceeds from the sale of a resource, stocks, bonds, mutual funds, promissory notes, mortgages, tax refunds, settlement of damage claims, trust funds, and other financial instruments that can be converted into cash. (7-1-06)T

~~223.~~ **Low Income Pregnant Woman.** Medical assistance for a pregnant woman that is limited to pregnancy-related services for the period of the pregnancy and sixty (60) days after the pregnancy ends. (7-1-06)T

Section 011 - Entire Section

011. DEFINITIONS (M THROUGH Z).

For the purposes of these rules the following terms are used as defined below: (7-1-06)T

01. **Participant.** A person ~~who is applying for or receiving Title XIX, Title XXI, or Premium Assistance eligible for, and enrolled in, the Idaho medical assistance program.~~ (7-1-06)T(7-1-06)T

02. **Premium.** A regular, periodic charge or payment for health coverage as set forth in IDAPA 16.03.16, "Premium Assistance." (7-1-06)T

~~**03.** **Premium Assistance.** The partial or total premium paid to an insurance company or employer by the State to supplement the cost of enrolling eligible individuals in a health insurance plan.~~ (7-1-06)T

04. **Relative of Specified Degree.** Relatives of specified degree include: father, mother, (natural or adoptive), child, grandfather or grandmother, brother or sister, stepfather or stepmother, stepbrother or stepsister, aunt or uncle, first cousin, first cousin once removed, niece, nephew, and persons of preceding generations denoted by grand, great or great-great. (7-1-06)T

05. **SSI.** Supplemental Security Income. (7-1-06)T

06. **SSN.** Social Security Number. (7-1-06)T

07. **State.** The state of Idaho. (7-1-06)T

08. **TAFI.** Temporary Assistance for Families in Idaho. (7-1-06)T

09. **TANF.** Temporary Assistance to Needy Families. (7-1-06)T

10. **Title XIX.** Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the States. This program pays for medical assistance for certain individuals and families with low income and limited resources. (7-1-06)T

11. **Title XXI.** Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP), is a federal and state partnership similar to Medicaid, that expands health insurance to targeted, low- income children. (7-1-06)T

12. **Transitional Medicaid.** Medical assistance for families who become ineligible for AFDC-related Title XIX Medicaid due to an increase in earned income or loss of income disregards. (7-1-06)T

13. **Working Day.** A calendar day in which the regular hours of Department activity occur. Weekends and State holidays are not considered working days. (7-1-06)T

Sections 221 through 239

221. U.S. CITIZENSHIP AND IDENTITY DOCUMENTATION REQUIREMENTS.

~~*To be eligible for Medicaid, an individual must provide documentation of identity and U.S. citizenship. The following are acceptable forms of documentation: Any individual who participates in a Medicaid funded program must provide documentation of U.S. citizenship and identity unless he has otherwise met the requirements under Section 225 of this rule. The individual must provide the Department with the most reliable document that is available. Documents must be originals or copies certified by the issuing agency. Copies of originals or notarized copies cannot be accepted. The Department will accept original documents in person, by mail, or through a guardian or authorized representative.*~~ (7-1-06)T(10-1-06)T

~~**01.** **Documents Accepted as Proof of Both U.S. Citizenship and Identity.** The following documents may be accepted as proof of both U.S. citizenship and identity.~~ (7-1-06)T

~~**a.** A U.S. passport;~~ (7-1-06)T

~~**b.** A Certificate of Naturalization (DHS Forms N-550 or N-570);~~ (7-1-06)T

- ~~e. A Certificate of U.S. Citizenship (DHS Forms N-560 or N-561); or (7-1-06)T~~
- ~~02. Documents Accepted as Proof of U.S. Citizenship, But Not Identity. The following documents may be accepted as proof of U.S. citizenship only. They are not proof of identity and must be used in combination with at least one (1) document listed in Subsection 221.03 of this rule to establish both citizenship and identity. (7-1-06)T~~
- ~~a. A U.S. birth certificate; (7-1-06)T~~
- ~~b. A Report of Birth Abroad of a U.S. Citizen (Form FS-545 or DS-1350); (7-1-06)T~~
- ~~c. A U.S. Citizen I.D. card (DHS Form I-197); (7-1-06)T~~
- ~~d. A hospital record of birth issued at the time of birth in one (1) of the fifty (50) states, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam (on or after April 10, 1899), the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island, or the Northern Mariana Islands. If the person was born to foreign diplomats residing in one (1) of the preceding jurisdictions of the U.S., he is not a citizen of the United States; (7-1-06)T~~
- ~~e. A Northern Mariana Identification Card issued by the Immigration and Naturalization Service (INS) to a collectively naturalized citizen of the United States who was born in the Northern Mariana Islands before November 3, 1986; (7-1-06)T~~
- ~~f. An American Indian Card issued by the Department of Homeland Security; (7-1-06)T~~
- ~~g. Information from a primary source such as the State Data Exchange (SDX) or birth confirmations from Vital Statistics; or (7-1-06)T~~
- ~~03. Documents Accepted as Proof of Identity, but Not Citizenship. The following documents may be accepted as proof of identity. They are not proof of citizenship and must be used in combination with at least one (1) document listed in Subsection 221.02 of this rule to establish both citizenship and identity. (7-1-06)T~~
- ~~a. A current state driver's license bearing the individual's picture; (7-1-06)T~~
- ~~b. A state-issued identity card issued to a non-driver bearing the individual's picture, for which the state required proof of identity as a condition of issuing the identity document. (7-1-06)T~~

222. LEVELS OF CITIZENSHIP DOCUMENTATION.

- 01. Documents Accepted as Primary Level Proof of Both U.S. Citizenship and Identity. The following documents are accepted as the primary level of proof of both U.S. citizenship and identity: (10-1-06)T**
- a. A U.S. passport; (10-1-06)T**
- b. A Certificate of Naturalization, DHS Forms N-550 or N-570; or (10-1-06)T**
- c. A Certificate of U.S. Citizenship, DHS Forms N-560 or N-561. (10-1-06)T**
- 02. Documents Accepted as Secondary Level Proof of U.S. Citizenship but Not Identity. The following documents are accepted as proof of U.S. citizenship if the proof in Subsection 222.01 is not available. These documents are not proof of identity and must be used in combination with a least one (1) document listed in Subsection 222.05 or Section 223 of these rules to establish both citizenship and identity. (10-1-06)T**
- a. A U.S. birth certificate that shows the individual was born in one (1) of the following: (10-1-06)T**
- i. United States fifty (50) states; (10-1-06)T**

- ii. District of Columbia; (10-1-06)T*
- iii. Puerto Rico, on or after January 13, 1941; (10-1-06)T*
- iv. Guam, on or after April 10, 1899; (10-1-06)T*
- v. U.S. Virgin Islands, on or after January 17, 1917; (10-1-06)T*
- vi. America Samoa; (10-1-06)T*
- vii. Swain's Island; or (10-1-06)T*
- viii. Northern Mariana Islands, after November 4, 1986; (10-1-06)T*
- b.** A certification of report of birth issued by the Department of State, Forms DS-1350 or FS-545; (10-1-06)T*
- c.** A report of birth abroad of a U.S. Citizen, Form FS 240; (10-1-06)T*
- d.** A U.S. Citizen I.D. card, DHS Form I-197; (10-1-06)T*
- e.** A Northern Mariana Identification Card, Form I-873; (10-1-06)T*
- f.** An American Indian Card issued by the Department of Homeland Security with the classification code "KIC," Form I-873; (10-1-06)T*
- g.** A final adoption decree showing the child's name and U.S. place of birth; (10-1-06)T*
- h.** Evidence of U.S. Civil Service employment before June 1, 1976; or (10-1-06)T*
- i.** An official U.S. Military record showing a U.S. place of birth. (10-1-06)T*
- 03. Documents Accepted as Third Level Proof of U.S. Citizenship but Not Identity. The following documents are accepted as proof of U.S. citizenship if a primary or secondary level of proof is not available. These documents are not proof of identity and must be used in combination with a least one (1) document listed in Subsection 222.05 or Section 223 of these rules to establish both citizenship and identity. (10-1-06)T***
 - a.** A written hospital record on hospital letterhead established at the time of the person's birth that was created five (5) years before the initial application date that indicates a U.S. place of birth; or (10-1-06)T*
 - b.** Life, health, or other insurance record that was created at least five (5) years before the initial application date and that indicates a U.S. place of birth. (10-1-06)T*
- 04. Documents Accepted as Fourth Level Proof of U.S. Citizenship but Not Identity. The following documents are accepted as proof of U.S. citizenship only if documents in Subsections 105.01 through 105.03 of these rules do not exist and cannot be obtained for a person who claims U.S. citizenship. These documents are not proof of identity and must be used in combination with a least one (1) document listed in Subsection 222.05 or Section 223 of these rules to establish both citizenship and identity. (10-1-06)T***
 - a.** Federal or state census record that shows the individual has U.S. citizenship or a U.S. place of birth; (10-1-06)T*
 - b.** One (1) of the following documents that shows a U.S. place of birth and was created at least five (5) years before the application for Medicaid; (10-1-06)T*
 - i.** Seneca Indian tribal census record; (10-1-06)T*

- ii. Bureau of Indian Affairs tribal census records of the Navajo Indians; (10-1-06)T*
- iii. U.S. State vital Statistics official notification of birth registration; (10-1-06)T*
- birth; iv. An amended U.S. public birth record that is amended more than five (5) years after the person's (10-1-06)T*
- v. Statement signed by the physician or midwife who was in attendance at the time of birth; (10-1-06)T*
- vi. Medical (clinic, doctor, or hospital) record; (10-1-06)T*
- vii. Institutional admission papers from a nursing facility, skilled care facility, or other institution; or (10-1-06)T*
- c. A written declaration, signed and dated, which states, "I declare under penalty of perjury that the foregoing is true and correct." A declaration is accepted if no other documentation is available and complies with the following: (10-1-06)T*
- i. Declarations must be made by two (2) persons who have personal knowledge of the events establishing the individual's claim of U.S. citizenship; (10-1-06)T*
- citizenship; ii. One (1) of the persons making a declaration cannot be related to the individual claiming U.S. (10-1-06)T*
- iii. Neither of the two (2) persons making the declaration can be an applicant or recipient of Medicaid; (10-1-06)T*
- and iv. The persons making the declaration must provide proof of their own U.S. citizenship and identity; (10-1-06)T*
- v. The persons making the declaration must provide an explanation as to why documentation for the individual does not exist or cannot be obtained. (10-1-06)T*
- vi. A declaration must be obtained from the individual applying for Medicaid, a guardian, or representative that explains why the documentation does not exist or cannot be obtained. (10-1-06)T*
- 05. Documents Accepted for Proof of Identity but Not Citizenship. The following documents are accepted as proof of identity. They are not proof of citizenship and must be used in combination with at least one (1) document listed in Subsections 222.01 through 222.04 of this rule to establish both citizenship and identity. (10-1-06)T**
- a. A state-issued driver's license bearing the individual's picture or other identifying information such as name, age, gender, race, height, weight, or eye color; (10-1-06)T*
- b. A federal, state, or local government-issued identity card with the same identifying information that is included on driver's licenses as described in Subsection 222.05.a of this rule; (10-1-06)T*
- c. School identification card with a photograph of the individual; (10-1-06)T*
- d. U.S. Military card or draft record; (10-1-06)T*
- e. Military dependent's identification card; (10-1-06)T*
- f. U. S. Coast Guard Merchant Mariner card; (10-1-06)T*
- g. Certificate of Degree of Indian blood; or (10-1-06)T*

h. Native American Indian or Alaska Native Tribal document with a photograph or other personal identifying information relating to the individual. (10-1-06)T

223. IDENTITY RULES FOR CHILDREN.

The following documentation of identity for children under sixteen (16) may be used: (10-1-06)T

01. School Records. School records may be used to establish identity. Such records also include nursery or day care records. (10-1-06)T

02. Written Declaration. A written declaration, signed and dated, which states, "I declare under penalty of perjury that the foregoing is true and correct," if documents listed in Subsection 221.02 of this rule are not available. A declaration cannot be used for identity if a declaration for citizenship documentation was provided for the child. A declaration may be used if it meets the following conditions: (10-1-06)T

a. It states the date and place of the child's birth; and (10-1-06)T

b. It is signed by a parent or guardian. (10-1-06)T

224. ELIGIBILITY FOR APPLICANTS AND MEDICAID PARTICIPANTS WHO DO NOT PROVIDE CITIZENSHIP AND IDENTITY DOCUMENTATION.

01. Applicants. Eligibility will be denied to any applicant who does not provide proof of citizenship and identity documentation. (10-1-06)T

02. Participants. Any Medicaid participant, who does not provide proof of citizenship and identity documentation at a scheduled renewal and who is making a good faith effort to obtain documentation, will not be terminated from Medicaid for lack of documentation unless the participant: (10-1-06)T

a. Does not meet other eligibility criteria required in this chapter of rules; or (10-1-06)T

b. Refuses to obtain the documentation. (10-1-06)T

225. INDIVIDUALS CONSIDERED AS MEETING THE U.S. CITIZENSHIP AND IDENTITY DOCUMENTATION REQUIREMENTS.

SSI recipients and individuals determined by the SSA to be entitled to or are receiving Medicare are considered to have met the U.S. citizenship and identity documentation requirements, regardless of whether documentation required in Subsections 221.01 through 221.05 or Sections 223 and 224 of these rules are provided: (10-1-06)T

226. TITLE IV-E FOSTER CARE CHILD.

The Department will not deny or delay Medicaid for a child receiving Title IV-E Foster Care assistance pending citizenship and identity documentation. (10-1-06)T

227. ASSISTANCE IN OBTAINING DOCUMENTATION.

The Department will assist individuals who are mentally or physically incapacitated and who lack a representative to assist them in obtaining such documentation. (10-1-06)T

228. PROVIDE DOCUMENTATION OF CITIZENSHIP AND IDENTITY ONE TIME.

When an individual has provided citizenship and identity documents, changes in eligibility will not require an individual to provide such documentation again unless later verification of the documents provided raises a question of the individual's citizenship or identity. (10-1-06)T

~~2229.~~ -- 239. (RESERVED).

Section 420

420. EXTENDED MEDICAID FOR SPOUSAL OR CHILD SUPPORT INCREASE.

Participants are eligible for four (4) calendar months of Extended Medicaid if an increase in the participant's spousal *or child* support causes them to exceed the income limit for their budget unit size. The participant must have received AFDC-related Medicaid in Idaho in at least three (3) of the six (6) months before the month the participant became income ineligible. (7-1-06)F(7-1-06)T

Section 523 - Entire Section

523. ~~CHILD WHO IS ENROLLED IN A CREDITABLE HEALTH INSURANCE OR IS A DEPENDANT OF A STATE EMPLOYEE IS NOT ELIGIBLE ACCESS TO OR COVERAGE UNDER OTHER HEALTH PLANS.~~

~~A child who is enrolled in a creditable health insurance plan or is a dependent of a state employee is not eligible for direct coverage if he meets one (1) of the following conditions A child is ineligible for coverage under the SCHIP plan if they have access to or are enrolled in other health coverage plans as described below: (7-1-06)F(7-1-06)T~~

~~01. **Child Under Age Six.** Child under age six (6) and the countable household income exceeds one hundred and thirty-three percent (133%) of the FPG for his family size and is less than or equal to one hundred eighty five percent (185%) of the FPG for his family size; or **Idaho State Employee Benefit Plan.** The child is eligible to receive health insurance benefits under Idaho's State employee benefit plan; or (7-1-06)F(7-1-06)T~~

~~02. **Child Age Six Through the Month of His Nineteenth Birthday.** Child age six (6) through the month of his nineteenth birthday and the countable family income exceeds one hundred percent (100%) of the FPG for his family size and is less than or equal to one hundred eighty five (185%) of the FPG for his family size. **Covered by Creditable Health Insurance.** The child is covered by creditable health insurance at the time of application; or (7-1-06)F(7-1-06)T~~

~~03. **Dropped from Creditable Coverage.** The child has been voluntarily dropped from creditable coverage in the six (6) months preceding application with the intention of qualifying for public coverage; or (7-1-06)T~~

~~04. **Eligible for Title XIX.** The child is eligible under Idaho's Title XIX State Plan. (7-1-06)T~~

Sections 560 through 599

560. CHOOSING CHILDREN'S PREMIUM ASSISTANCE ACCESS CARD.

Participants may choose *Premium Assistance Children's Access Card* for a child ~~not currently enrolled in a creditable health insurance plan when the family's income is under one hundred eighty five percent (185%) of the FPG when their countable family income exceeds one-hundred thirty-three percent (133%) and is less than or equal to one-hundred eighty-five percent (185%) of the Federal Poverty Guideline for his family size.~~ (7-1-06)F(7-1-06)T

~~01. **Children's Premium Assistance Eligibility.** All other eligibility requirements in IDAPA 16.03.16, "Premium Assistance," are applicable to children's Premium Assistance unless the rule excludes this coverage group or the child meets the conditions specified in Subsection 525 of these rules. (7-1-06)T~~

~~02. **Co-pays and Deductibles.** The family is responsible for the co-pays and deductibles required by their private insurance. (7-1-06)F~~

561. CHILDREN'S ACCESS CARD ELIGIBILITY.

Eligibility requirements described in Sections 520 through 525 and 200 through 296 of these rules are applicable to Children's Access Card. (7-1-06)T

562. CO-PAYS AND DEDUCTIBLES.

The family is responsible for the co-pays and deductibles required by their private insurance. (7-1-06)T

~~563. -- 599. (RESERVED).~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

DOCKET NO. 16-0304-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2007, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code, and 7 CFR.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 217 through 219. These proposed rule changes will become effective July 1, 2007.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There may be a slight increase in the number of families approved for food stamps, but there will be no fiscal impact to the state general funds. The Food Stamp Program is 100% federally funded.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Rosie Andueza at (208) 334-5553.

DATED this 3rd day of November, 2006.

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DOCKET NO. 16-0304-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 217 through 219.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

DOCKET NO. 16-0304-0602

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is October 1, 2006. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 56-202, Idaho Code, and 7 CFR Parts 271 through 274.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The changes to these rules are concerning clarification of capital gains and how it is calculated.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin.

The original text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 220 through 242.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Rosie Andueza at (208) 334-5553.

DATED this 15th day of November, 2006.

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DOCKET NO. 16-0304-0602 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 220 through 242.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET 16-0304-0602

Subsection 430.02

430. COMPUTING NON-FARMING SELF-EMPLOYMENT INCOME.

Compute non-farming self-employment income by adding projected monthly earnings to projected capital gains and subtracting the self-employment standard deduction. (10-1-06)T

02. Add Monthly Capital Gains Income. Capital gains *income is the increase in value of an asset between the time it is bought and the time it is sold include profit from the sale or transfer of capital assets used in self-employment. Calculate capital gains using the federal income tax method.* Determine if the household expects to receive any capital gains income from self-employment assets during the certification period. Add this amount to the monthly earnings as determined in Subsection 430.01 of these rules to determine the gross monthly income.

~~(10-1-06)F~~(10-1-06)T

Subsection 431.02

431. COMPUTING FARMING SELF-EMPLOYMENT INCOME.

For farming self-employment, compute net income by subtracting allowable expenses from the gross income as follows in Subsections 431.01 through 431.04 of these rules. (10-1-06)T

02. Add Monthly Capital Gains Income. Capital gains *income is the increase in the value of an asset between the time it was bought and the time it was sold include profit from the sale or transfer of capital assets used in self-employment. Calculate capital gains using the federal income tax method.* Determine if the household expects to receive any capital gains income from farming self-employment assets during the certification period. Add this amount to the monthly earnings as determined in Subsection 431.01 of these rules to determine the gross monthly income.

~~(10-1-06)F~~(10-1-06)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED BLIND AND DISABLED (AABD)

DOCKET NO. 16-0305-0603

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendments to the temporary rules is January 1, 2007. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), and 56-209(n), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The following changes have been made to the Medicaid Workers with Disabilities section of rule to clarify requirements for eligibility and income limitations. Those clarifications include:

1. Adding eligibility requirements and references to specific rules citing those requirements for Medicaid residency, citizenship, SSN, and child support cooperation;
2. Adding a resource amount allowed for a couple as well as citing specific rules; and
3. Adding a gross income test for an individual and a couple using earned and unearned income before exclusions or disregards.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. The original text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 243 and 244.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1), the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Governing law requires that the Workers with Disabilities be effective on January 1, 2007.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

For the fiscal year 2007, the impact of this rule change to the State General Fund is \$233,900 as appropriated in the 2007 Department Budget.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Department held formal negotiations on June 14, 2006 in Boise, Idaho. The Negotiated Rulemaking Notice was published in the Idaho Administrative Bulletin, Vol. 06-6, on June 7, 2006, page 96.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Peggy Cook at (208) 334-5969.

DATED this 6th day of November, 2006.

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DOCKET NO. 16-0305-0603 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 243 and 244.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET 16-0305-0603

Section 799 - Entire Section

799. MEDICAID FOR WORKERS WITH DISABILITIES.

An individual is eligible to participate in the Medicaid for Workers with Disabilities coverage group if the individual meets ~~all of the following: the requirements in Subsections 799.01 through 799.07 of this rule.~~ ~~(1-1-07)F(1-1-07)T~~

- 01. Age Non-Financial Requirements.** An individual must: ~~(1-1-07)T~~
 - a.** Be at least sixteen (16) but less than sixty-five (65) years of age; ~~(1-1-07)F(1-1-07)T~~
 - b.** Meet the Medicaid residency requirement as described in Section 100 of these rules; ~~(1-1-07)T~~
 - c.** Meet the citizenship requirements as described in Sections 105 and 106 of these rules; ~~(1-1-07)T~~
 - d.** Meet the SSN requirements as described in Section 104 of these rules; and ~~(1-1-07)T~~
 - e.** Meet the child support cooperation requirements as described in Sections 703 through 706 of these rules. ~~(1-1-07)T~~
- 02. Disability.** An individual must meet the medical definition for having a disability or blindness used by the Social Security Administration for Social Security Disability Insurance (SSDI) and Supplemental Security

Income (SSI) benefits. (1-1-07)T

03. Employment. An individual must be employed which may include self-employment. Proof of employment must be provided to the Department. Hourly wage or hours worked will not be used to determine employment. (1-1-07)T

04. Resources. ~~A participant's~~ Countable resources cannot exceed ten thousand dollars (\$10,000) ~~for an individual or fifteen thousand dollars (\$15,000) for a couple.~~ When calculating resources the following items will be excluded: ~~(1-1-07)T~~(1-1-07)T

- a. Any resources excluded under Sections 200 through 299 of these rules; (1-1-07)T
- b. A second ~~car~~ vehicle as described in Sections 222 of these rules; ~~(1-1-07)T~~(1-1-07)T
- c. Life insurance policies; (1-1-07)T
- d. Retirement accounts; and (1-1-07)T
- e. Exempt trusts as described in Section 872 of these rules. ~~(1-1-07)T~~(1-1-07)T

05. Countable Income. ~~A participant's~~ Countable income, ~~after is calculated using~~ exclusions and disregards ~~used for AABD~~ as described in Sections 300 through 499 of these rules; (1-1-07)T

a. An individual's countable income cannot exceed five hundred percent (500%) of the current federal poverty guideline for a household of one (1). The gross earned income cannot be less than fifteen percent (15%) of the participant's total gross income. ~~(1-1-07)T~~(1-1-07)T

b. A couple's countable income cannot exceed five hundred percent (500%) of the current federal poverty guideline for a household of two (2). (1-1-07)T

06. Earned Income Test. Gross income is the total of earned and unearned income before exclusions or disregards. Each individual's gross earned income must be at least fifteen percent (15%) of his total gross income to qualify. (1-1-07)T

06. Cost-Sharing Premium. A participant in the Medicaid for Workers with Disabilities coverage group may be required to ~~pay a~~ cost-sharing premium share. ~~A If a participant's premium for his is required to cost-share of for Medicaid, the costs is are~~ determined under the provisions in IDAPA 16.03.18, "Medicaid Cost-Sharing." ~~(1-1-07)T~~(1-1-07)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED,
BLIND, AND DISABLED (AABD)

DOCKET NO. 16-0305-0604

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 56-202(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a pending rule and a concise explanatory statement of the reasons for adopting the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 245 through 248. The Department negotiated this rulemaking to establish a method for the distribution of the annual cost-of-living adjustment increase. The rule reflects the negotiated percentages for the annual distribution between the basic allowance and the allowance for rent, utilities, and food.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no anticipated fiscal impact increase to the state general fund. These changes are a distribution of funds budgeted for participants in the Aged and Disabled Waiver program.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Peggy Cook at (208) 334-5969.

DATED this 3rd day of November, 2006.

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DOCKET NO. 16-0305-0604 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 245 through 248.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

**16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE
AGED, BLIND AND DISABLED (AABD)**

DOCKET NO. 16-0305-0606

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b) and 56-203(g), Idaho Code and HCR 53 (2006).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 249 and 250.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The implementation of this rule change is projected to result in a savings of \$640,888 to the state general fund for fiscal year 2007. NOTE: This is a savings in the Division of Medicaid's Trustee and Benefit budget; it is not a reduction in the Division of Welfare's budget.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Peggy Cook at (208) 334-5969.

DATED this 3rd day of November, 2006.

Sherri Kovach, Program Supervisor
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DOCKET NO. 16-0305-0606 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 249 and 250.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED,
BLIND AND DISABLED (AABD)

DOCKET NO. 16-0305-0607

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202 and 56-250 through 56-257, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the November 1, 2006, Idaho Administrative Bulletin, Vol. 06-11, pages 46 through 50.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact to the state General Fund due to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Peggy Cook at (208) 334-5969.

DATED this 30th day of November, 2006.

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DOCKET NO. 16-0305-0607 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-11, November 1, 2006, pages 46 through 50.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED,
BLIND, AND DISABLED (AABD)

DOCKET NO. 16-0305-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202, Idaho Code and federal Deficient Reduction Act of 2005, P.L. 109-171.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Date:	Monday, January 15, 2007	Tuesday, January 16, 2007
Time:	7:00 p.m.	7:00 p.m.
Place:	DHW - Region IV Office Suite D, Room 119 1720 Westgate Dr., Boise, ID	State Office Building 3rd Floor Conference Room 1118 "F" Street, Lewiston, ID

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a non-technical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is a result of the federal Deficient Reduction Act (DRA) of 2005 and encourages the purchase of long-term care insurance for Idahoans to manage the payment of long-term care first, instead of Medicaid. This rule provides incentive to individuals who purchase a Qualified Long-Term Care Partnership Policy by allowing a disregard of assets or resources in an amount equal to the insurance benefit payments paid for the beneficiary once the policy holder has exhausted their long-term care benefits. The dollar amount paid by the policy for their care is also exempt from the recovery of medical assistance received by the participant (Estate Recovery). This will alleviate the financial burden on Idaho's medical assistance program by encouraging the pursuit of private insurance. After November 1, 2006, individuals will not be eligible for Medicaid to meet their long-term care needs until the policy holder has exhausted the long-term care benefits provided by their Qualified LTC Partnership Policy.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is being done to meet federal regulations time lines and confer a benefit.

FEE SUMMARY: There is no fee or charge being imposed or increased in this docket.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes to rule are being made to meet federal regulation time lines.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Peggy Cook at (208) 334-5969.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 24, 2007.

DATED this 3rd day of November, 2006.

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0305-0701

710. -- ~~720~~19. (RESERVED).

~~720~~0. LONG-TERM CARE RESIDENT AND MEDICAID.

A resident of a long-term care facility must meet the AABD eligibility criteria to be eligible for Medicaid. A long-term care facility is a nursing facility, or an intermediate care facility for the mentally retarded. The need for long-term care is determined using IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (10-1-06)T

01. Resources of Resident. The resident's resource limit is two thousand dollars (\$2,000). Resources of a married person in long-term care are computed using Federal Spousal Impoverishment rules. Under the SSI method, spouses can use the three thousand dollar (\$3,000) couple resource limit if more advantageous. The couple must have lived in the nursing home, in the same room, for six (6) months. (3-20-04)

02. Medicaid Income Limit of Long-Term Care Resident Thirty Days or More. The monthly income limit for a long-term care facility resident is three (3) times the Federal SSI benefit for a single person. To qualify for this income limit the participant must be, or be likely to remain, in long-term care at least thirty (30) consecutive days. (3-20-04)

03. Medicaid Income Limit of Long-Term Care Resident Less Than Thirty Days. The monthly income limit, for the resident of a long-term care facility for less than thirty (30) consecutive days, is the AABD income limit for the participant's living situation before long-term care. Living situations before long-term care do not include hospital stays. (7-1-99)

04. Income Not Counted. The income listed in Subsections ~~720~~04.a. through ~~720~~04.e. of these rules is not counted to compute Medicaid eligibility for a long-term care facility resident. This income is counted in determining participation in the cost of long-term care. (~~3-20-04~~)(11-1-06)T

a. Income excluded or disregarded, in determining eligibility for AABD cash, is not counted. (3-20-04)

b. The September 1972 RSDI increase is not counted. (3-20-04)

c. Any VA Aid and Attendance allowance, including any increment which is the result of a VA Unusual Medical Expense allowance, is not counted. These allowances are not counted for patient liability, unless the veteran lives in a state operated veterans' home. (3-20-04)

d. RSDI benefit increases, from cost-of-living adjustments (COLA) after April 1977, are not counted if they made the participant lose SSI or AABD cash. The COLA increases after SSI or AABD cash stopped are not counted. (3-20-04)

e. Income paid into an income trust exempt from counting for Medicaid eligibility under Subsection 872.02 of these rules is used for patient liability. Income paid to the trust and not used for patient liability, is subject to the asset transfer penalty. (3-20-04)

721. QUALIFIED LONG-TERM CARE PARTNERSHIP POLICY.

Benefits from a Qualified Long-Term Care Partnership policy issued in Idaho after November 1, 2006, must be exhausted before a person can be eligible for Medicaid for long-term care. (11-1-06)T

01. Value of the Participant's Assets. The dollar amount of the benefits paid out for a policy holder of a Qualified Long-Term Care Partnership policy is disregarded in calculating the value of the participant's assets. (11-1-06)T

02. Asset Disregard Excluded From Estate Recovery. The amount of the asset disregard from a Qualified Long-Term Care Partnership policy is excluded from estate recovery for Medicaid services paid for the participant. (11-1-06)T

03. Exhaustion of a Long-Term Care Partnership Policy. A Long-Term Care Partnership policy is exhausted when the policy pays the maximum of the policy limits for the participant's long-term care. (11-1-06)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO

DOCKET NO. 16-0308-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2007, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code, and 45 CFR Parts 260 - 265.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 251 and 252. These proposed rule changes will become effective July 1, 2007.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There may be a slight increase in the number of families approved for TAFI, but there will be no fiscal impact to the state general funds. The Temporary Assistance to Needy Families is a federal block grant used to fund the TAFI program.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner at (208) 334-5656.

DATED this 3rd day of November, 2006.

Sherri Kovach
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DOCKET NO. 16-0308-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 251 and 252.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO

DOCKET NO. 16-0308-0602

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code, and 45 CFR Parts 260 - 265.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as the original proposed rule published. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 253 through 256.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There may be a slight increase in the number of families approved for TAFI, but there will be no fiscal impact to the state general funds. The Temporary Assistance to Needy Families is a federal block grant used to fund the TAFI.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner at (208) 334-5656.

DATED this 3rd day of November, 2006.

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DOCKET NO. 16-0308-0602 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 253 through 256.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM
DOCKET NO. 16-0309-0603 (CHAPTER REPEAL)
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), and 56-250 through 56-257, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The notice for the repeal of IDAPA 16.03.09, "Rules Governing the Medical Assistance Program" was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, page 137. The rewritten chapter IDAPA 16.03.09, "Medicaid Basic Plan Benefits," published simultaneously under Docket No. 16-0309-0604.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Pam Mason at (208) 364-1863.

DATED this 6th day of October, 2006.

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DOCKET NO. 16-0309-0603 - ADOPTION OF PENDING RULE

This chapter is being repealed in its entirety.

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, page 137.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0604

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective dates of the amendments to the temporary rule are July 1, 2006, December 1, 2006, and January 1, 2007. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), and 56-250 through 56-257, Idaho Code. These rule changes are being made to bring this chapter of rules into compliance with HB 776 (2006) - "Idaho Medicaid Simplification Act," also, HB 663, HCR 48, HCR 51, and SB 1318 (all passed by the 2006 Legislature).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The following is an overview of amendments made to the pending rule, based on input received during the public comment period:

1. Updated the references to the Durable Medical Equipment (DME) Supplier Manual in the Incorporation by Reference section and in the DME section.
2. Added definitions inadvertently omitted when temporary rules were published in August and clarified several existing definitions;
3. Clarified when individuals may provide services on a provisional basis when a criminal history check is required;
4. Clarified descriptions of some accounting procedures so as to better reflect practices that have long been in effect;
5. Moved the sections regarding the handling of overpayments and underpayments to providers into their own section and clarified the specific provider types to which these provisions apply.
6. Deleted obsolete descriptions of "principle year" and clarified how a "principal year" is reckoned;
7. Reorganized portions of the rule text, especially the Sections related to Mental Health Clinic services;
8. Made corrections to rule citations;
9. Added a more detailed description of Preventive Health Assistance (PHA) and clarified how PHA premiums work;
10. Clarified and reorganized the section related to the return of unused prescription drugs.
11. Clarified the requirements for physician recertification of the medical necessity of physical therapy.
12. Clarified the prior authorization requirements for services under Early Periodic Screening, Diagnosis, and Treatment (EPSDT).
13. Pursuant to Section 67-5228, Idaho Code, made typographical, transcriptional, and/or clerical corrections to the rule being published with this Notice of Rulemaking.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions that have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 138 through 284.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The fiscal impact for SFY 2007 is identified in bills passed by the 2006 Legislature.

1. HB 663 (2006) projected new costs of \$1,125,575 to the General Fund for prevention services and health risk assessments.
2. HCR 48 (2006) projected a savings of \$3,000,000 to the General Fund through the elimination of partial care services and the reduction of mental health benefits for low-income adults and children without serious mental illness.
3. HCR 51 (2006) projected a savings of \$189,000 to the General Fund from the implementation of selective contracting.

New costs as appropriated in the 2007 Budget - \$1,944,500 for increased reimbursement for "well child" checks and to pay for provider performance initiatives.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Leslie Clement at (208) 364-1804.

DATED this 14th day of November, 2006.

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DOCKET NO. 16-0309-0604 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 138 through 284.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0309-0604

Section 000 - Entire Section

000. LEGAL AUTHORITY.

Section 56-202b, Idaho Code, enables the Department of Health and Welfare to promulgate public assistance rules. Section 56-203(g), Idaho Code, empowers the Department to define persons entitled to medical assistance. Section 56-203(i), Idaho Code, identifies the amount, duration, and scope of care and services to be purchased as medical assistance on behalf of individuals eligible to receive benefits under the Medical Assistance Program. Sections 56-253 through 56-255, Idaho Code, establish minimum standards that enable these rules. Title 56, Chapter 1, Idaho Code, establishes standards for provider payment for inpatient services. Provider reimbursement under Title XIX and Title XXI will be in accordance with these rules as well as 42 CFR Part 447 and the Provider Reimbursement Manual (PRM) Part I and Part II found in CMS Publication 15-1 and 15-2, that are incorporated by reference in Section 004 of these rules. The provisions apply unless contradicted by these rules. (7-1-06)T

01. Rulemaking Authority. *The Idaho Department of Health and Welfare has the authority to promulgate public assistance rules under Section 56-202(b), Idaho Code.* (7-1-06)T

02. General Administrative Authority. *Titles XIX and XXI of the Social Security Act, as amended, and the companion federal regulations, are the basic authority for administration of the federal program. General administrative duties for the Department are found under Section 56-202, Idaho Code.* (7-1-06)T

03. Administration of the Medical Assistance Program. (7-1-06)T

a. *Section 56-203(g), Idaho Code, empowers the Department to define persons entitled to medical assistance.* (7-1-06)T

b. *Section 56-203(i), Idaho Code, empowers the Department to identify the amount, duration, scope of care, and services to be purchased as medical assistance on behalf of individuals eligible to receive benefits under the Medical Assistance Program.* (7-1-06)T

c. *Sections 56-250 through 56-257, Idaho Code, establish minimum standards that enable these rules.* (7-1-06)T

04. Fiscal Administration. (7-1-06)T

a. *Fiscal administration of these rules is authorized by Titles XIX and XXI of the Social Security Act, as well as 42 CFR Part 447 and the Provider Reimbursement Manual (PRM) Part I and Part II found in CMS Publication 15-1 and 15-2. Provisions of the PRM, as incorporated in Section 004 of these rules, apply unless otherwise provided for in these rules.* (7-1-06)T

b. *Title 56, Chapter 1, Idaho Code, establishes standards for provider payment for certain Medicaid providers.* (7-1-06)T

Section 004 - Entire Section

004. INCORPORATION BY REFERENCE.

The following are incorporated by reference in this chapter of rules: (7-1-06)T

01. 42 CFR Part 447. 42 CFR Part 447, "Payment for Services," revised as of October 1, 2001, is available from CMS, 7500 Security Blvd, Baltimore, M.D., 21244-1850 or on the Code of Federal Regulations internet site at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>. (7-1-06)T

02. American Academy of Pediatrics (AAP) Periodicity Schedule. *This document is available on the internet at: <http://aappolicy.aappublications.org/cgi/reprint/pediatrics;105/3/645.pdf>. The schedule is also available at the Division of Medicaid, 3232 Elder Street, Boise, ID 83705.* (7-1-06)T

03. **CDC Child and Teen BMI Calculator.** *The Centers for Disease Control (CDC) Child and Teen Body Mass Index (BMI) Calculator is available on the internet at: <http://www.cdc.gov/nccdphp/dnpa/bmi/index.htm>. The Calculator is also available through the Division of Medicaid, 3232 Elder Street, Boise, ID 83705.* (7-1-06)T

024. **CDT - 2005.** Current Dental Terminology, Fifth Edition. CDT - 2005. Current Dental Terminology, Fifth Edition, is available from the American Dental Association, 211 East Chicago Ave., Chicago, IL 60611-2678, or may be ordered online at <http://www.ada.org/prof/resources/topics/cdt/manual.asp>. A copy is available for public review at the Division of Medicaid, 3232 Elder Street, Boise, ID 83705. (7-1-06)T

035. **DSM-IV-TR.** American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) Washington, DC, American Psychiatric Association, 2000. Copies of the manual are available from the American Psychiatric Association, 1400 K Street, N.W., Washington, DC, 20005. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (7-1-06)T

046. **Estimated Useful Lives of Depreciable Hospital Assets, 2004 Revised Edition, Guidelines Lives.** This document may be obtained from American Hospital Publishing, Inc., 211 East Chicago Avenue, Chicago, IL, 60611. (7-1-06)T

057. **Idaho Infant Toddler Program Implementation Manual (Revised September 1999).** The full text of the "Idaho Infant Toddler Program Implementation Manual," revised September 1999, is available at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (7-1-06)T

068. **Idaho Special Education Manual, September 2001.** The full text of the "Idaho Special Education Manual, September 2001" is available on the Internet at <http://www.sde.state.id.us/SpecialEd/manual/sped.asp>. A copy is also available at the Idaho Department of Education, 650 West State Street, P.O. Box 83720, Boise, Idaho 83720-0027. (7-1-06)T

079. **Medicare ~~Region D Durable Medical Equipment Regional Carrier DMERC~~ Durable Medical Equipment (DME) Medicare Administrative Contractor (MAC) Jurisdiction D Supplier Manual April 2007, As Amended.** *Since the supplier manual is amended on a quarterly basis by CMS, the current year's manual is being incorporated by reference, as amended, to allow for the incorporation of the most recent amendments to the manual.* The full text of the Medicare-Region D-DMERC Supplier Manual Chapters IX and X is available via the Internet at www.cignamedicare.com. A copy is also available at the Idaho State Supreme Court Law Library, 451 West State Street, Boise, Idaho, 83702. *DME MAC Jurisdiction D Supplier Manual is available via the Internet at: www.noridianmedicare.com.* (7-1-06)T(7-1-06)T

0810. **Physician's Current Procedural Terminology (CPT® Manual).** This document may be obtained from the American Medical Association, P.O. Box 10950, Chicago, Illinois 60610, or online at: <http://www.ama-assn.org/ama/pub/category/3113.html>. (7-1-06)T(7-1-06)T

0911. **Provider Reimbursement Manual (PRM).** The Provider Reimbursement Manual (PRM), Part I and Part II (CMS Publication 15-1 and 15-2), is available on the CMS internet site at <http://www.cms.hhs.gov/Manuals/PBM/itemdetail.asp?filterType=none&filterByDID=-99&sortByDID=1&sortOrder=ascending&itemID=CMS021929> and <http://www.cms.hhs.gov/Manuals/PBM/itemdetail.asp?filterType=none&filterByDID=0&sortByDID=1&sortOrder=ascending&itemID=CMS021935>. (7-1-06)T

102. **SIB-R Comprehensive Manual.** Scales of Independent Behavior - Revised Comprehensive Manual, 1996, Riverside Publishing Co, 425 Spring Lake Drive, Itasca, IL 60143-2079. A copy is available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho 83702. (7-1-06)T

143. **Travel Policies and Procedures of the Idaho State Board of Examiners.** The text of "Idaho State Travel Policies and Procedures of the Idaho State Board of Examiners," Appendices A and B, June 13, 2000, is available at the Office of the State Controller, 700 W. State St., 5th Fl., Box 83720, Boise, Idaho 83720-0011 or on the Internet at <http://www.sco.idaho.gov>. (7-1-06)T

Subsections 009.02 and 009.04.a.

009. MANDATORY CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

02. Availability to Work or Provide Service. ~~Certain providers are allowed to provide services after the Department has received the self-declaration and fingerprinting, except when they have disclosed a designated crime listed in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." The criminal history check requirements applicable to each provider type are found in the rules that state the qualifications of these providers.~~
(7-1-06)F(1-1-07)T

a. The employer, at its discretion, may allow an individual to provide care or services on a provisional basis once the application for a criminal history and background check is completed and notarized, and the employer has reviewed the application for any disqualifying crimes or relevant records. The employer determines whether the individual could pose a health and safety risk to the vulnerable participants it serves. The individual is not allowed to provide care or services when the employer determines the individual has disclosed a disqualifying crime or relevant records.
(1-1-07)T

b. Those individuals licensed or certified by the Department are not available to provide services or receive licensure or certification until the criminal history and background check is completed and a clearance issued by the Department.
(1-1-07)T

04. Providers Subject to Criminal History Check Requirements. The following providers must receive a criminal history clearance: (7-1-06)T

a. Mental Health Clinics. The criminal history check requirements applicable to mental health clinic staff are found in Subsection 714.06~~5~~ of these rules. (7-1-06)F(7-1-06)T

Subsections 010.03 through 010.33

010. DEFINITIONS -- A THROUGH H.

For the purposes of these rules, the following terms are used as defined below: (7-1-06)T

03. Amortization. The systematic recognition of the declining utility value of certain assets, usually not owned by the organization or intangible in nature.
(7-1-06)T

034. Ambulatory Surgical Center (ASC). Any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization, and which is certified by the U.S. Department of Health and Human Services as an ASC. (7-1-06)T

045. Audit. An examination of provider records on the basis of which an opinion is expressed representing the compliance of a provider's financial statements and records with Medicaid law, regulations, and rules. (7-1-06)T

056. Auditor. The individual or entity designated by the Department to conduct the audit of a provider's records. (7-1-06)T

067. Audit Reports. (7-1-06)T

a. Draft Audit Report. A preliminary report of the audit finding sent to the provider for the provider's review and comments. (7-1-06)T

b. Final Audit Report. A final written report containing the results, findings, and recommendations, if any, from the audit of the provider, as approved by the Department. (7-1-06)T

- c. Interim Final Audit Report. A written report containing the results, findings, and recommendations, if any, from the audit of the provider, sent to the Department by the auditor. (7-1-06)T
- ~~08.~~ 08. *Bad Debts. Amounts due to provider as a result of services rendered, but which are considered uncollectible.* (7-1-06)T
- ~~079.~~ **Basic Plan.** The medical assistance benefits included under this chapter of rules. (7-1-06)T
- ~~0810.~~ **Buy-In Coverage.** The amount the State pays for Part B of Title XVIII of the Social Security Act on behalf of the participant. (7-1-06)T
- ~~0911.~~ **Certified Registered Nurse Anesthetist (CRNA).** A Registered Nurse qualified by advanced training in an accredited program in the specialty of nurse anesthesia to manage the care of the patient during the administration of anesthesia in selected surgical situations. (7-1-06)T
- ~~102.~~ **Claim.** An itemized bill for services rendered to one (1) participant by a provider and submitted to the Department for payment. (7-1-06)T
- ~~143.~~ **CFR.** Code of Federal Regulations. (7-1-06)T
- ~~14.~~ 14. *Clinical Nurse Specialist. A licensed professional nurse who meets all the applicable requirements to practice as clinical nurse specialist under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing."* (7-1-06)T
- ~~125.~~ **CMS.** Centers for Medicare and Medicaid Services. (7-1-06)T
- ~~136.~~ **Collateral Contact.** Contact made with a parent, guardian, or other individual having a primary relationship to the patient by an appropriately qualified treatment professional. The contact must be ordered by a physician, contained in the treatment plan, directed at the medical treatment of the patient, and documented in the progress notes or continuous service record. (7-1-06)T
- ~~17.~~ 17. *Co-Payment. The amount a participant is required to pay to the provider for specified services.* (7-1-06)T
- ~~148.~~ **Cost Report.** A fiscal year report of provider costs required by the Medicare program and any supplemental schedules required by the Department. (7-1-06)T
- ~~159.~~ **Customary Charges.** Customary charges are the rates charged to Medicare participants and to patients liable for such charges, as reflected in the facility's records. Those charges are adjusted downward, when the provider does not impose such charges on most patients liable for payment on a charge basis or, when the provider fails to make reasonable collection efforts. The reasonable effort to collect such charges is the same effort necessary for Medicare reimbursement as is needed for unrecovered costs attributable to certain bad debt as described in Chapter 3, Sections 310 and 312, PRM. (7-1-06)T
- ~~1620.~~ **Department.** The Idaho Department of Health and Welfare (~~IDHWW~~) or a person authorized to act on behalf of the Department. (~~7-1-06~~)T(7-1-06)T
- ~~1721.~~ **Director.** The Director of the Idaho Department of Health and Welfare or his designee. (7-1-06)T
- ~~1822.~~ **Dual Eligibles.** Medicaid participants who are also eligible for Medicare. (7-1-06)T
- ~~1923.~~ **Durable Medical Equipment (DME).** Equipment other than prosthetics or orthotics that can withstand repeated use by one (1) or more individuals, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of an illness or injury, is appropriate for use in the home, and is reasonable and necessary for the treatment of an illness or injury for a medical assistance participant. (7-1-06)T
- ~~204.~~ **Emergency Medical Condition.** A medical condition manifesting itself by acute symptoms of

sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following:

(7-1-06)T

a. Placing the health of the individual, or, with respect to a pregnant woman, the health of the woman or unborn child, in serious jeopardy. (7-1-06)T

b. Serious impairment to bodily functions. (7-1-06)T

c. Serious dysfunction of any bodily organ or part. (7-1-06)T

~~245.~~ **EPSDT.** Early and Periodic Screening, Diagnosis, and Treatment. (7-1-06)T

~~226.~~ **Facility.** Facility refers to a hospital, nursing facility, or ~~ICF/MR~~ *intermediate care facility for persons with mental retardation.* ~~(7-1-06)T~~(7-1-06)T

~~237.~~ **Federally Qualified Health Center (FQHC).** An entity that meets the requirements of 42 U.S.C Section 1395x(aa)(4). The FQHC may be located in either a rural or urban area designated as a shortage area or in an area that has a medically underserved population. (7-1-06)T

~~248.~~ **Fiscal Year.** An accounting period that consists of twelve (12) consecutive months. (7-1-06)T

~~259.~~ **Forced Sale.** A forced sale is a sale required by a bankruptcy, foreclosure, the provisions of a will or estate settlement pursuant to the death of an owner, physical or mental incapacity of an owner which requires ~~transfer of~~ ownership *transfer* to an existing partner or partners, or a sale required by the ruling of a federal agency or by a court order. ~~(7-1-06)T~~(7-1-06)T

~~2630.~~ **Healthy Connections.** The primary care case management model of managed care under Idaho Medicaid. (7-1-06)T

~~2731.~~ **Home Health Services.** Services ordered by a physician and performed by a licensed nurse, registered physical therapist, or home health aide as defined in IDAPA 16.03.07, "Rules for Home Health Agencies." (7-1-06)T

~~2832.~~ **Hospital.** A hospital as defined in Section 39-1301, Idaho Code. (7-1-06)T

~~2933.~~ **Hospital-Based Facility.** A nursing facility that is owned, managed, or operated by, or is otherwise a part of a licensed hospital. (7-1-06)T

Subsections 011.14, 011.21. and 011.23

011. DEFINITIONS -- I THROUGH O.

For the purposes of these rules, the following terms are used as defined below: (7-1-06)T

14. Medical Necessity (Medically Necessary). A service is medically necessary if: (7-1-06)T

a. It is reasonably calculated to prevent, diagnose, or treat conditions in the ~~individual~~ *participant* that endanger life, cause pain, or cause functionally significant deformity or malfunction; and ~~(7-1-06)T~~(7-1-06)T

b. There is no other equally effective course of treatment available or suitable for the ~~individual~~ *participant* requesting the service which is more conservative or substantially less costly. ~~(7-1-06)T~~(7-1-06)T

c. Medical services must be of a quality that meets professionally-recognized standards of health care and must be substantiated by records including evidence of such medical necessity and quality. Those records must be made available to the Department upon request. ~~(7-1-06)T~~(7-1-06)T

21. **Nursing Facility (NF).** An institution, or distinct part of an institution, that is primarily engaged in providing skilled nursing care and related services for participants. It is an ~~entity~~ *entity* licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare participants. Participants must require medical or nursing care, or rehabilitation services for injuries, disabilities, or sickness. ~~(7-1-06)T~~ (7-1-06)T

23. **Outpatient Hospital Services.** Preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a physician or dentist to a patient not in need of *inpatient* hospital care. ~~(7-1-06)T~~ (7-1-06)T

Subsections 230.02.c., and 230.08

230. GENERAL PAYMENT PROCEDURES.

02. **Individual Provider Reimbursement.** The Department will not pay the individual provider more than the lowest of: (7-1-06)T

c. ~~The Department will pay the lesser of the~~ Medicaid-allowed amount minus the Medicare payment or the Medicare co-insurance and deductible amounts added together when a participant has both Medicare and Medicaid. ~~(7-1-06)T~~ (7-1-06)T

08. **Services Reimbursable After the Appeals Process.** Reimbursement for services originally identified by the Department as not medically necessary will be made if such decision is reversed by the appeals process required in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (7-1-06)T

New Section 231

231. **HANDLING OF OVERPAYMENTS AND UNDERPAYMENTS FOR SPECIFIED PROVIDERS.** The provisions in Subsections 231.01 and 231.02 of this rule apply only to hospitals, FOHCs, RHCs and Home Health providers. (7-1-06)T

01. **Interest Charges on Overpayments and Underpayments.** The Medicaid program will charge interest on overpayments, and pay interest on underpayments, as follows: (7-1-06)T

a. **Interest After Sixty Days of Notice.** If full repayment from the indebted party is not received within sixty (60) days after the provider has received the Department reimbursement notice, interest will accrue from the date of receipt of the Department reimbursement notice, and will be charged on the unpaid settlement balance for each thirty (30) day period that payment is delayed. Periods of less than thirty (30) days will be treated as a full thirty (30) day period, and the thirty (30) day interest charge will be applied to any unpaid balance. Each payment will be applied first to accrued interest, then to the principal. Interest accrued on overpayments and interest on funds borrowed by a provider to repay overpayments are not an allowable interest expense. (7-1-06)T

b. **Waiver of Interest Charges.** When the Department determines an overpayment exists, it may waive interest charges if it determines that the administrative costs of collecting them exceed the charges. (7-1-06)T

c. **Rate of Interest.** The interest rate on overpayments and underpayments will be the statutory rate as set forth in Section 28-22-104(1), Idaho Code, compounded monthly. (7-1-06)T

d. **Retroactive Adjustment.** The balance and interest will be retroactively adjusted to equal the amounts that would have been due based on any changes which occur as a result of the final determination in the administrative appeal and judicial appeal process. Interest penalties will only applied to unpaid amounts and will be subordinated to final interest determinations made in the judicial review process. (7-1-06)T

02. Recovery Methods for Overpayments. *One (1) of the following methods will be used for recovery of overpayments:* (7-1-06)T

a. Lump Sum Voluntary Repayment. *Upon receipt of the notice of program reimbursement, the provider voluntarily refunds, in a lump sum, the entire overpayment to the Department.* (7-1-06)T

b. Periodic Voluntary Repayment. *The provider must request in writing that recovery of the overpayment be made over a period of twelve (12) months or less. The provider must adequately document the request by demonstrating that the financial integrity of the provider would be irreparably compromised if repayments occurred over a shorter period of time than requested.* (7-1-06)T

c. Department Initiated Recovery. *The Department will recover the entire unpaid balance of the overpayment of any settlement amount in which the provider does not respond to the notice of program reimbursement within thirty (30) days of receiving the notice.* (7-1-06)T

d. Recovery from Medicare Payments. *The Department can request that Medicare payments be withheld in accordance with 42 CFR Section 405.377.* (7-1-06)T

~~234.~~ -- 234. (RESERVED).

New Section 245

~~241.~~ -- ~~249.~~ (RESERVED).

245. PROVIDERS OF SCHOOL-BASED SERVICES. *Only school districts, charter schools, and the Idaho Infant Toddler Program can be reimbursed for the services described in Sections 850 through 856 of these rules.* (7-1-06)T

~~246.~~ -- ~~249.~~ (RESERVED).

Subsection 330.02

330. PROVIDER'S RESPONSIBILITY TO MAINTAIN RECORDS.

The provider must maintain financial and other records in sufficient detail to allow the Department to audit them as described in Section 305 of these rules. (7-1-06)T

02. Cost Allocation Process. Costs such as depreciation or amortization of assets and indirect expenses are allocated to activities or functions based on the original identity of the costs. Documentation to support basis for allocation must be available for verification. *The assets referred to in this Section of rule are economic resources of the provider recognized and measured in conformity with generally accepted accounting principles.* (7-1-06)T(7-1-06)T

Subsection 390.01

390. SERVICES, TREATMENTS, AND PROCEDURES NOT COVERED BY MEDICAL ASSISTANCE.

The following services, treatments, and procedures are not covered for payment by the Medical Assistance Program: (4-7-05)T

01. Service Categories Not Covered. The following service categories are not covered for payment by the Medical Assistance Program: (4-7-05)T

- a. Acupuncture services; (4-7-05)T
- b. Naturopathic services; (4-7-05)T
- c. Bio-feedback therapy; ~~and~~ (~~7-1-06~~)T(7-1-06)T
- d. Group exercise therapy; (7-1-06)T
- e. Group hydrotherapy; and (7-1-06)T
- f. Fertility-related services, including testing. (4-7-05)T

Section 399, Subsections 399.10.b. and 399.16

399. COVERED SERVICES UNDER BASIC PLAN BENEFITS.

Individuals who are eligible for Medicaid Basic Plan Benefits are eligible for the following benefits described in this chapter of rules. Those individuals eligible for services under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," ~~under~~ are also eligible for the services covered under this chapter of rules, unless specifically exempted.

(~~7-1-06~~)T(7-1-06)T

10. Mental Health Services. The range of covered Mental Health services are described in Sections 700 through 716 of these rules. (7-1-06)T

- b. Mental Health Clinic services are described in Sections ~~740~~ through 716. (~~7-1-06~~)T(7-1-06)T

16. Dental Services. The range of covered dental and ~~tenderest~~ denturist services is described in Sections 800 through 806 of these rules. (~~7-1-06~~)T(7-1-06)T

Subsections 400.08 through 400.28

400. INPATIENT HOSPITAL SERVICES - DEFINITIONS.

~~08.~~ **Cost Report.** ~~The complete Medicare cost reporting form CMS 2552, or its successor, as completed in full and accepted by the Intermediary for Medicare cost settlement and audit.~~ (~~7-1-06~~)T

~~09.~~ **Current Year.** Any hospital cost reporting period for which reasonable cost is being determined will be termed the current year. (7-1-06)T

~~40.~~ **Customary Hospital Charges.** Customary hospital charges reflect the regular rates for inpatient or outpatient services charged to patient(s) liable for payment for their services on a charge basis. Implicit in the use of charges as the basis for comparability (or for apportionment under certain apportionment methods) is the objective that services are related to the cost of services billed to the Department. No more than ninety-six and a half percent (96.5%) of covered charges will be reimbursed for the separate operating costs for either total inpatient services or total outpatient services at the time of final cost settlement for any fiscal year with the exception set forth in Subsection 405.03.b. of these rules. (~~7-1-06~~)T(7-1-06)T

~~10.~~ **Disproportionate Share Hospital (DSH) Allotment Amount.** The DSH allotment amount determined by CMS that is eligible for federal matching funds in any federal fiscal period for disproportionate share payments. (7-1-06)T

~~11.~~ **Disproportionate Share Hospital (DSH) Survey.** The DSH survey is an annual data request from the Department to the hospitals to obtain the information necessary to compute DSH in accordance with Subsection 405.09.a. of these rules. (7-1-06)T

- 132. Disproportionate Share Threshold.** The disproportionate share threshold is: (7-1-06)T
- a.** The arithmetic mean plus one (1) standard deviation of the Medicaid Utilization Rates of all Idaho Hospitals; or (7-1-06)T
- b.** A Low Income Revenue Rate exceeding twenty-five percent (25%). (7-1-06)T
- 143. Excluded Units.** Excluded units are distinct units in hospitals which are certified by Medicare according to 42 CFR Sections 412.25, 412.27 and 412.29 for exclusion from the Medicare prospective payment system. (7-1-06)T
- 154. Hospital Inflation Index.** An index calculated through Department studies and used to adjust inpatient operating cost limits and interim rates for the current year. (7-1-06)T
- 165. Low Income Revenue Rate.** The Low Income Revenue Rate is the sum of the following fractions, expressed as a percentage, calculated as follows: (7-1-06)T
- a.** Total Medicaid inpatient revenues paid to the hospital, plus the amount of the cash subsidies received directly from state and local governments in a cost reporting period, divided by the total amount of revenues and cash subsidies of the hospital for inpatient services in the same cost reporting period; plus (7-1-06)T
- b.** The total amount of the hospital's charges for inpatient hospital services attributable to charity care in the same cost reporting period, divided by the total amount of the hospital's charges for inpatient services in the hospital in the same period. The total inpatient charges attributed to charity care must not include contractual allowances and discounts and reduction in charges given to Medicare, Medicaid, other third-party payors, or cash for patient services received directly from state and local governments county assistance programs. (7-1-06)T
- 176. Medicaid Inpatient Day.** For purposes of DSH payments, an inpatient day is defined as a Medicaid inpatient day in a hospital for which there is also no Medicare inpatient day counted. (7-1-06)T
- 187. Medicaid Utilization Rate (MUR).** The MUR for each hospital will be computed using the Department's record of paid inpatient days for the fiscal year divided by the total inpatient days for the same fiscal year as reported in the DSH survey. In this paragraph, the term "inpatient days" includes Medicaid swing-bed days, administratively necessary days, newborn days, days in specialized wards, days provided at an inappropriate level of care, and Medicaid inpatient days from other states. In this paragraph, "Medicaid inpatient days" includes paid days not counted in prior DSH threshold computations. (7-1-06)T
- 198. Obstetricians.** For purposes of an adjustment for hospitals serving a disproportionate share of low income patients, and in the case of a hospital located in a rural area, as defined by the federal Executive Office of Management and Budget, the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures. (7-1-06)T
- 209. On-Site.** A service location over which the hospital exercises financial and administrative control. "Financial and administrative control" means a location whose relation to budgeting, cost reporting, staffing, policy-making, record keeping, business licensure, goodwill and decision-making are so interrelated to those of the hospital that the hospital has ultimate financial and administrative control over the service location. The service location must be in close proximity to the hospital where it is based, and both facilities serve the same patient population (e.g. from the same area, or catchment, within Medicare's defined Metropolitan Statistical Area (MSA) for urban hospitals or thirty-five (35) miles from a rural hospital). (7-1-06)T
- 210. Operating Costs.** For the purposes of hospital reimbursement, operating costs are the allowable costs included in the cost centers established in the finalized Medicare cost report to accumulate costs applicable to providing routine and ancillary services to patients for the purposes of cost assignment and allocation in the step-down process. (7-1-06)T
- 221. Other Allowable Costs.** Other allowable costs are those reasonable costs recognized under the

Medicaid reasonable cost principles for services not subject to Medicaid limitations of coverage or reimbursement limits. Costs which are not reimbursed as operating costs, but recognized by Medicare principles as allowable costs will be included in the total reasonable costs. Other allowable costs include, but are not necessarily limited to, physician's component which was combined-billed, capital costs, ambulance costs, excess costs, carry-forwards and medical education costs. (7-1-06)T

232. Principal Year. The principal year is the period from which the Medicaid Inpatient Operating Cost Limit is derived. (7-1-06)T

~~a. For services rendered from July 1, 1987 through July 5, 1995, the principal year is the provider's fiscal year ending in calendar year 1984 in which a finalized Medicare cost report or its equivalent is prepared for Medicaid cost settlement. (7-1-06)T~~

~~b. For inpatient services rendered after July 5, 1995, through June 30, 1998, the principal year is the provider's fiscal year ending in calendar year 1992 in which a finalized Medicare cost report, or its equivalent, is prepared for Medicaid cost settlement. (7-1-06)T~~

~~c. For inpatient services rendered after June 30, 1998, the principal year is the provider's fiscal year ending in calendar year 1995 in which a finalized Medicare cost report or its equivalent is prepared for Medicaid cost settlement. (7-1-06)T~~

~~d. For inpatient services rendered on or after November 1, 2002, the principal year is the provider's fiscal year ending in calendar year 1998 in which a finalized Medicare cost report or its equivalent is prepared for Medicaid cost settlement. (7-1-06)T~~

b. For inpatient services rendered on or after January 1, 2007, the principal year is the provider's fiscal year ending in calendar year 2003 and every subsequent fiscal year-end in which a finalized Medicare cost report, or its equivalent, is prepared for Medicaid cost settlement. (7-1-06)T

243. Public Hospital. For purposes of Subsection 405.03.b. of these rules, a Public Hospital is a hospital operated by a federal, state, county, city, or other local government agency or instrumentality. (7-1-06)T

254. Reasonable Costs. Except as otherwise provided in Section 405.03 of these rules, reasonable costs include all necessary and ordinary costs incurred in rendering the services related to patient care which a prudent and cost-conscious hospital would pay for a given item or service which do not exceed the Medicaid cost limit. (7-1-06)T

265. Reimbursement Floor Percentage. The percentage of allowable Medicaid costs guaranteed to all hospitals licensed and Medicare certified for State Fiscal Year Ending November 1, 2002, and thereafter - eighty one and a half percent (81.5%). (7-1-06)T

276. TEFRA. TEFRA is the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248. (7-1-06)T

287. Uninsured Patient Costs. For the purposes of determining the additional costs beyond uncompensated Medicaid costs that may be reimbursed as a DSH payment without exceeding the state Allotment Amount, only inpatient costs of uninsured patients will be considered. An inpatient with insurance but no covered benefit for the particular medically necessary service, procedure or treatment provided is an uninsured patient. (7-1-06)T

298. Upper Payment Limit. The Upper Payment Limit for hospital services is defined in the Code of Federal Regulations. (7-1-06)T

Subsection 402.01

402. INPATIENT HOSPITAL SERVICES - COVERAGE AND LIMITATIONS.

The policy, rules and regulations to be followed will be those cited in 42 CFR 456.50 through 42 CFR 456.145.

(7-1-06)T

01. Exceptions and Limitations. The following exceptions and limitations apply to in-patient hospital services: (7-1-06)T

a. Payment for accommodations is limited to the hospital's all-inclusive rate. The all-inclusive rate is a flat fee charge incurred on a daily basis that covers both room and board. (~~7-1-06~~)(7-1-06)T

b. The Department must not authorize reimbursement above the all-inclusive rate unless the attending physician orders a ~~special~~ room that is not an all-inclusive rate room for the patient because of medical necessity. (~~7-1-06~~)(7-1-06)T

Section 405, Subsections 405.04.b, 405.06.c., 405.09.b.v.(1), and 405.16 through 405.21

405. INPATIENT HOSPITAL SERVICES - PROVIDER REIMBURSEMENT.

Under the Medicaid provisions of the Social Security Act, in reimbursing hospitals, the Department will pay the lesser of customary hospital charges or the reasonable cost of inpatient services in accordance with the procedures detailed under this Section of rule. The upper limits observed by the Department in reimbursing each individual hospital must not exceed the payment that would be determined as a reasonable cost under the policies, definitions and procedures observed under Medicare (Title XVIII) principles of cost reimbursement. (~~7-1-06~~)(7-1-06)T

04. Payment Procedures. The following procedures are applicable to in-patient hospitals: (7-1-06)T

b. In reimbursing licensed hospitals, the Department will pay the lesser of customary hospital charges or the reasonable cost of semi-private rates for in-patient hospital care ~~in accordance with the rules as~~ set forth in ~~Idaho~~ in ~~these~~ this rules, ~~unless an exception applies as stated in Section 402 of these rules.~~ The upper limits for payment must not exceed the payment which would be determined as reasonable cost using the Title XVIII standards and principles. (~~7-1-06~~)(7-1-06)T

06. AND Reimbursement Rate. Reimbursement for an AND will be made at the weighted average Medicaid payment rate for all Idaho nursing facilities for routine services, as defined per 42 CFR 447.280(a)(1), furnished during the previous calendar year. ICF/MR rates are excluded from this calculation. (7-1-06)T

c. The Department will pay the lesser of the established AND rate or a facility's customary hospital charge to private pay patients for an AND. (~~7-1-06~~)(7-1-06)T

09. Adjustment for Disproportionate Share Hospitals (DSH). All hospitals serving a disproportionate share of low income patients must qualify either as a Mandatory DSH or as Deemed DSH to receive a DSH payment. (7-1-06)T

b. Mandatory Eligibility. Mandatory Eligibility for DSH status will be provided for hospitals which: (7-1-06)T

v. In order to qualify for a DSH payment, a hospital located outside the state of Idaho must: (7-1-06)T

(1) Qualify under the Mandatory DSH requirements set forth in Subsection 405.09 of this chapter of rules; (~~7-1-06~~)(7-1-06)T

~~17. Interest Charges on Overpayments and Underpayments to Hospitals. The Medicaid program will charge interest on overpayments, and pay interest on underpayments, to hospitals as follows: (7-1-06)T~~

~~a. Interest After Sixty Days of Notice. If full repayment from the indebted party is not received within sixty (60) days after the provider has received notice of program reimbursement, interest will accrue from the date of receipt of the notice of program reimbursement as defined in Section 405.16 of this rule, and will be charged on the unpaid settlement balance for each thirty (30) day period that payment is delayed. Periods of less than thirty (30) days will be treated as a full thirty (30) day period, and the thirty (30) day interest charge will be applied to any unpaid balance. Each payment will be applied first to accrued interest, then to the principal. Interest accrued on overpayments and interest on funds borrowed by a provider to repay overpayments are not an allowable interest expense. (7-1-06)T~~

~~b. Waiver of Interest Charges. When the Department determines an overpayment exists, it may waive interest charges if it determines that the administrative costs of collecting them exceed the charges. (7-1-06)T~~

~~c. Rate of Interest. The interest rate on overpayments and underpayments will be the statutory rate as set forth in Section 28-22-104(1), Idaho Code, compounded monthly. (7-1-06)T~~

~~d. Retroactive Adjustment. The balance and interest will be retroactively adjusted to equal the amounts that would have been due based on any changes which occur as a result of the final determination in the administrative appeal and judicial appeal process. Interest penalties will only be applied to unpaid amounts and will be subordinated to final interest determinations made in the judicial review process. (7-1-06)T~~

~~18. Recovery Methods. Recovery will be effected by one (1) of the following methods: (7-1-06)T~~

~~a. Lump Sum Voluntary Repayment. Pursuant to the provider's receipt of the notice of program reimbursement, the provider refunds the entire overpayment to the Department. (7-1-06)T~~

~~b. Periodic Voluntary Repayment. The provider must request in writing that recovery of the overpayment be made over a period of twelve (12) months or less. The provider must adequately document the request by demonstrating that the financial integrity of the provider would be irreparably compromised if repayments occurred over a shorter period of time than requested. (7-1-06)T~~

~~c. Department Initiated Recovery. The Department will recover the entire unpaid balance of the overpayment of any settlement amount in which the provider does not respond to the notice of program reimbursement within thirty (30) days of receipt. (7-1-06)T~~

~~d. Recovery From Medicare Payments. The Department may request that Medicare payments be withheld in accordance with 42 CFR Section 405.376. (7-1-06)T~~

~~19. Nonappealable Items. The formula for the determination of the Hospital Inflation Index, the principles of reimbursement which define allowable cost, non-Medicaid program issues, interim rates which are in compliance with state and federal rules, and the preliminary adjustments prior to final cost settlement determinations as supported by properly completed cost reports and audits must not be accepted as appealable items. (7-1-06)T~~

~~20. Interim Reimbursement Rates. The interim reimbursement rates are reasonable and adequate to meet the necessary costs which must be incurred by economically and efficiently operated providers which provide services in conformity with applicable state and federal laws, rules, and quality and safety standards. (7-1-06)T~~

~~a. Annual Adjustments. Interim rates will be adjusted at least annually based on the best information available to the Department. The interim rate will reflect the Medicaid Inpatient Operating Cost Limits used to set inpatient rates and the Reimbursement Floor Percentage. (7-1-06)T~~

~~b. Retrospective Adjustments. Interim rates will not be adjusted retrospectively upon request for rate review by the provider. (7-1-06)T~~

~~c. Basis for Adjustments. The Department may make an adjustment based on the Medicare cost report~~

as submitted and accepted by the Intermediary after the provider's reporting year to bring interim payments made during the period into agreement with the tentative reimbursable amount due the provider at final settlement. If the settlement amount is equal to or greater than ten percent (10%) of the payments received or paid and equal to or greater than one hundred thousand dollars (\$100,000), the interim rate will be adjusted to account for half (½) of the difference. (7-1-06)T

d. Unadjusted Rate. The Medicaid interim reimbursement rate on file is synonymous with the term unadjusted rate used by other payors. (7-1-06)T

219. **Audits.** All financial reports are subject to audit by Departmental representatives in accordance with Section 305 of these rules. (7-1-06)T

Subsection 415.01.d.i.

415. OUTPATIENT HOSPITAL SERVICES - PROVIDER REIMBURSEMENT.

01. Outpatient Hospital. The Department will not pay more than the combined payments the provider is allowed to receive from the participants and carriers or intermediaries for providing comparable services under comparable circumstances under Medicare. Outpatient hospital services identified below that are not listed in the Department's fee schedules will be reimbursed reasonable costs based on a year end cost settlement. (7-1-06)T

d. Hospital Outpatient Surgery. Those items furnished by a hospital to an outpatient in connection with Ambulatory Surgical Center must be surgical procedures covered by Idaho Medicaid. The aggregate amount of payments for related facility services, furnished in a hospital on an outpatient basis, is equal to the lesser of: (7-1-06)T

i. The hospital's reasonable costs as reduced by federal mandates for certain operating costs, capital costs, customary *hospital* charges; or ~~(7-1-06)T~~(7-1-06)T

Subsection 505.01

505. PHYSICIAN SERVICES - PROVIDER REIMBURSEMENT.

01. Physician Penalties for Late QIO Review. Medicaid will assess the physician a penalty for failure to request a preadmission review from the Department, for procedures and diagnosis listed on the select list in the Department's Physician Provider Handbook and the QIO Idaho Medicaid Provider Manual, ~~in accordance with Subsection 405.02.a. of these rules.~~ If a retrospective review determines the procedure was medically necessary, and the physician was late in obtaining a preadmission review the Department will assess a penalty according to Subsection 505.02 of this rule. The penalty will be assessed after payment for physician services has occurred. ~~(7-1-06)T~~(7-1-06)T

Subsection 560.08

560. HEALTHY CONNECTIONS - DEFINITIONS.

For purposes of this Sub Area, unless the context clearly requires otherwise, the following words and terms have the following meanings: (7-1-06)T

08. Qualified Medical Professional. ~~means a~~ A duly licensed physician in the following specialties: Pediatrics, Internal Medicine, Family Practice, General Practice, General Surgery, Obstetrics/Gynecology, or a physician in any other specialty who chooses to assume the function of primary care case management. It also includes nurse practitioners, and physician assistants. Licenses must be held in the state(s) where services are being

rendered.

~~(7-1-06)F(7-1-06)T~~

Subsection 563.01.b.

563. HEALTHY CONNECTIONS - PROCEDURAL REQUIREMENTS.

01. Primary Care Case Management. Under the Healthy Connections model of managed care, each participant obtains medical services through a single primary care provider. This provider either provides the needed service, or makes a referral for needed services. This management function neither reduces nor expands the scope of covered services. (7-1-06)T

b. Changing Providers. If a participant is dissatisfied with his provider, he may change providers effective the first day of any month by contacting ~~their~~ his designated Healthy Connections Representative to do so no later than fifteen (15) days in advance. This advance notice requirement may be waived by the Department.

~~(7-1-06)F(7-1-06)T~~

Section 570 - Entire Section

570. HEALTH QUESTIONNAIRE.

The Health Questionnaire assesses the general health status and health behaviors of a participant. The information collected is used to provide customized health education to the participant. The Health Questionnaire is administered at initial program entry and at periodic intervals thereafter. Participant responses to the issues addressed in the Health Questionnaire may identify a participant's need for interest in the ~~Prevention and Preventive~~ Health Assistance benefits described in Section 620 of these rules. (7-1-06)F(7-1-06)T

Section 615 - Entire Section

615. ADDITIONAL ASSESSMENT AND EVALUATION SERVICES.

In addition to evaluations for services as defined in this Chapter, the Department will reimburse for the following evaluations if needed to determine eligibility for Medicaid Enhanced Plan Benefits. (7-1-06)T

01. Enhanced Mental Health Services. Enhanced mental health services are not ~~a~~ covered ~~service~~ under the Basic Plan with the exception of assessment services. The assessment for determination of need for Enhanced mental health services ~~are~~ is subject to the requirements for comprehensive assessments at IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," ~~Subsection~~ 113, and provider qualifications under Section 714~~5~~ of these rules and under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 130 and 131.

~~(7-1-06)F(7-1-06)T~~

02. Developmental Disability Agency Services (DDA). DDA services are not ~~a~~ covered ~~service~~ under the Basic Plan with the exception of assessment and evaluation services. The assessment and/or evaluation for the need for DDA services ~~are~~ is subject to the requirements for DDA services under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 653.02, and IDAPA 16.04.11, "Developmental Disabilities Agencies," Sections 600 through 604.

~~(7-1-06)F(7-1-06)T~~

03. Service Coordination Services. Service coordination services are not ~~a~~ covered ~~services~~ under the Basic Plan, with the exception of assessment services. The assessment for the need for service coordination services ~~are~~ is subject to the requirements for service coordination under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 727.03, as applicable to the service being requested, and provider qualifications under IDAPA 10.03.10, "Medicaid Enhanced Plan Benefits," Section 729.

~~(7-1-06)F(7-1-06)T~~

Sections 620 through 626

620. PREVENTION AND PREVENTIVE HEALTH ASSISTANCE (PHA) - DEFINITIONS.

Prevention and health assistance (PHA) benefits are made available to participants who use tobacco or are obese, for the purposes of supporting tobacco cessation or weight loss. Participants must meet Department-defined criteria for PHA eligibility and use. (7-1-06)T

01. Behavioral PHA. *Benefits available to a participant specifically to support tobacco cessation or weight control. (12-1-06)T*

02. Benefit Year. *A benefit year is twelve (12) continuous months. A participant's PHA benefit year begins the date his initial points are earned. (12-1-06)T*

03. PHA Benefit. *A mechanism to reward healthy behaviors and good health choices of a participant eligible for preventive health assistance. (12-1-06)T*

04. Wellness PHA. *Benefits available to a participant to support wellness and safety. (12-1-06)T*

621. PREVENTIVE HEALTH ASSISTANCE (PHA) - PARTICIPANT ELIGIBILITY.

01. Behavioral PHA. *The participant must have a Health Questionnaire on file with the Department. The Health Questionnaire is used to determine eligibility for a Behavioral PHA. The participant must indicate on the Health Questionnaire that he wants to change a behavior related to weight management or tobacco cessation. The participant must meet one of the following criteria: (12-1-06)T*

a. *For an adult, a body mass index (BMI) of thirty (30) or higher or eighteen and one-half (18 1/2) or lower. (12-1-06)T*

b. *For a child, a body mass index (BMI) that falls in either the overweight or the underweight category as calculated using the Centers for Disease Control (CDC) Child and Teen BMI Calculator. (12-1-06)T*

c. *For either an adult or a child, use of tobacco products. (12-1-06)T*

02. Wellness PHA. *A participant who is required to pay premiums to maintain eligibility under IDAPA 16.03.01, "Eligibility for Health Assistance for Families and Children," is eligible for Wellness PHA. (12-1-06)T*

622. PREVENTIVE HEALTH ASSISTANCE (PHA) - COVERAGE AND LIMITATIONS.

01. Point System. *The PHA benefit uses a point system to track points earned and used by a participant. Points earned by a participant can be exchanged for a voucher to purchase products or services as specified in Subsections 622.02 through 622.06 of this rule. Each point equals one (1) dollar. (12-1-06)T*

a. Maximum Benefit Points. (12-1-06)T

i. *The maximum number of points that can be earned for a Behavioral PHA is two hundred (200) points each benefit year. (12-1-06)T*

ii. *The maximum number of points that can be earned for a Wellness PHA benefit is one hundred twenty (120) points each benefit year. (12-1-06)T*

iii. *The total maximum number of points that can be earned by a participant who has both a Behavioral and a Wellness PHA is two hundred (200) points each benefit year. (12-1-06)T*

b. *Each participant is limited to one (1) Behavioral PHA benefit at any point in time. (12-1-06)T*

c. *Points expire and are removed from a participant's PHA benefit at the end of the participant's benefit year. (12-1-06)T*

d. Points earned for a specific participant's PHA benefit cannot be transferred to or combined with points in another participant's PHA benefit. (12-1-06)T

02. Medications and Pharmaceutical Supplies. Medications and pharmaceutical supplies must be purchased from a licensed pharmacy. (12-1-06)T

a. Each medication and pharmaceutical supply must have a primary purpose directly related to weight management or tobacco cessation. (12-1-06)T

b. Each medication and pharmaceutical supply must be approved by the FDA, or specifically recommended by the participant's PCP, or a referred physician specialist. (12-1-06)T

03. Sporting or Fitness Program. (12-1-06)T

a. Each program must emphasize safety and improved physical health. (12-1-06)T

b. Each program must be approved by any and all applicable regulatory bodies. (12-1-06)T

04. Sports Safety Equipment. Each piece of sports safety equipment must afford protection or otherwise support safe participation in a sport with an expected outcome of improved physical health, and meet any and all established, applicable independent standards related to the product. (12-1-06)T

05. Weight Management Program. Each program must provide weight management services and must include a curriculum that includes at least one (1) of the three (3) following areas: (12-1-06)T

a. Physical fitness: (12-1-06)T

b. Balanced diet; or (12-1-06)T

c. Personal health education. (12-1-06)T

06. Participant Request for Coverage. A participant can request that a previously unidentified product or service be covered. The Department will approve a request if the product or service meets the requirements described in this section of rule and the vendor meets the requirements in Section 624 of these rules. (12-1-06)T

07. Premiums. (12-1-06)T

a. PHA benefit points must be used to pay a participant's delinquent premiums, if any, before a voucher can be issued for products or services. (12-1-06)T

b. Only premiums that must be paid to maintain eligibility under IDAPA 16.03.01, "Eligibility for Health Assistance for Families and Children" can be offset by PHA benefit points. (12-1-06)T

08. Hearing Rights. A participant does not have hearing rights for issues arising between the participant and a chosen vendor. (12-1-06)T

623. PREVENTIVE HEALTH ASSISTANCE (PHA) - PROCEDURAL REQUIREMENTS.

01. Behavioral PHA. (12-1-06)T

a. A PHA benefit will be established for each participant who meets the eligibility criteria for Behavioral PHA. A participant must complete a PHA Benefit Agreement Form prior to earning any points. (12-1-06)T

b. Each participant who chooses a goal of tobacco cessation must enroll in a tobacco cessation program. (12-1-06)T

c. Each participant who chooses a goal of weight management must participate in a physician approved or monitored weight management program. (12-1-06)T

d. An initial one hundred (100) points are earned when the agreement form is received by the Department and the benefit is established. (12-1-06)T

e. An additional one hundred (100) points can be earned by a participant who completes his program or reaches a chosen, defined goal. The vendor monitoring the participant's progress must verify that the program was completed or the goal was reached. (12-1-06)T

02. Wellness PHA. (12-1-06)T

a. A PHA benefit will be established for each participant who meets the eligibility criteria for Wellness PHA. Each participant must demonstrate that he has received recommended wellness visits and immunizations for his age prior to earning any points. (12-1-06)T

b. An initial thirty (30) points are earned when the benefit is established. (12-1-06)T

c. An additional thirty (30) points can be earned each quarter by a participant who receives all recommended wellness visits and immunizations for his age during the benefit year. (12-1-06)T

03. Vouchers. The participant must contact the Department to request a voucher to purchase selected products or services. The participant must deliver the voucher to the vendor prior to receiving products or services. (12-1-06)T

04. Approved Products and Services. The reimbursable products and services of each vendor must be prior approved by the Department. (12-1-06)T

624. PREVENTIVE HEALTH ASSISTANCE (PHA) - PROVIDER QUALIFICATIONS AND DUTIES.

01. Voucher Acceptance. Each vendor must be willing to accept PHA vouchers and bill the Department for reimbursement. (12-1-06)T

02. Voucher Expiration. The vendor must accept a voucher prior to the expiration date printed on the voucher. (12-1-06)T

03. Provider Agreement. A voucher signed by a vendor and presented to the Department for reimbursement constitutes a fully-executed provider agreement. (12-1-06)T

04. Medications and Pharmaceutical Supplies Vendor. Each vendor must be a licensed pharmacy. (12-1-06)T

05. Sporting or Fitness Program Vendor. Each vendor must be able to provide a sporting or fitness program as described in Section 622 of these rules. (12-1-06)T

06. Sports Safety Equipment Vendor. (12-1-06)T

a. Each vendor must be established as a business serving the general public that provides sports safety equipment. (12-1-06)T

b. Each vendor must meets all state, county, and local business licensing requirements. (12-1-06)T

c. Each vendor must be able to provide sports safety equipment as described in Section 622 of these rules. (12-1-06)T

07. Weight Management Program Vendor. (12-1-06)T

- a. Each vendor must be established as a business that serves the general public. (12-1-06)T*
- b. Each vendor must meet all state, county, and local business licensing requirements. (12-1-06)T*
- c. Each vendor must be able to provide a weight management program as described in Section 622 of these rules. (12-1-06)T*

625. PREVENTIVE HEALTH ASSISTANCE (PHA) - PROVIDER REIMBURSEMENT.

01. Voucher Must Be Signed. *The Department, the participant, and the vendor must sign each PHA voucher for which a vendor requests reimbursement. (12-1-06)T*

02. Voucher Amount. *The vendor must agree to accept the amount stated on each PHA voucher as full or partial payment of approved products and services. (12-1-06)T*

03. Voucher Redemption. *Each voucher must be redeemed by the vendor within ninety (90) days of providing the product or service to the participant. (12-1-06)T*

626. PREVENTIVE HEALTH ASSISTANCE (PHA) - QUALITY ASSURANCE.

The Department will establish performance measurements to evaluate the effectiveness of PHA. The performance measurements will be reviewed at least annually and adjusted as necessary to provide quality assurance. (12-1-06)T

~~627.~~ -- 629. (RESERVED).

Subsections 662.01 and 662.04.g.

662. PRESCRIPTION DRUGS - COVERAGE AND LIMITATIONS.

01. General Drug Coverage. The Department will pay for those prescription drugs not excluded by Subsection 662.04 of these rules which are legally obtainable by the order of a licensed prescriber whose licensing allows for the prescribing of legend drugs, as defined under Section 54-1705(278), Idaho Code, and which are deemed medically necessary as defined in Section 011 of these rules. ~~(7-1-06)T~~(7-1-06)T

04. Excluded Drug Products. The following categories and specific products are excluded from coverage by Medicaid: (7-1-06)T

g. Nicotine Tobacco Cessation Products. Nicotine chewing gum, sprays, inhalers, transdermal patches and related products. ~~(7-1-06)T~~(7-1-06)T

Subsection 664.03

664. PRESCRIPTION DRUGS - PROVIDER QUALIFICATIONS AND DUTIES.

03. Return of Unused Prescription Drugs. *When prescription drugs were dispensed in unit dose packaging, as defined by IDAPA 27.01.01, "Rules of the Idaho State Board of Pharmacy," Subsection 156.05, and the participant for whom the drugs were prescribed no longer uses them: (7-1-06)T*~~(7-1-06)T~~

a. A licensed skilled nursing care facility ~~must~~ *may* return unused drugs dispensed in unit dose packaging to the pharmacy provider that dispensed the medication. ~~(7-1-06)T~~(7-1-06)T

b. A residential or assisted living facility may return unused drugs dispensed in unit dose packaging to the pharmacy provider that dispensed the medication. (7-1-06)T

04. Pharmacy Provider Receiving Unused Prescription Drugs. *In order for a pharmacy provider to receive unused prescription drugs that it dispensed in unit dose packaging and that are being returned by a facility identified in Subsection 664.03 of this rule, the pharmacy provider:* (7-1-06)T

a. *Must comply with IDAPA 27.01.01, "Rules of the Idaho State Board of Pharmacy." Subsection 156.05, regarding unit dose packaging:* (7-1-06)T

b. *Must credit the Department the amount billed for the cost of the drug less the dispensing fee; and* (7-1-06)T

c. *May receive a fee for acceptance of returned unused prescription drugs. The value of the unused prescription drug being returned must be such that return of the drug is cost-effective as determined by the Department.* (7-1-06)T

Section 685

685. FAMILY PLANNING SERVICES - PROVIDER REIMBURSEMENT.

Payment to providers of family planning services for contraceptive supplies is limited to estimated acquisition cost. *Payment for family planning services is made at a rate established in accordance with Section 230 of these rules.*

(7-1-06)T(7-1-06)T

Subsection 705.01.a.

705. INPATIENT PSYCHIATRIC HOSPITAL SERVICES - PROVIDER REIMBURSEMENT.

Failure to request a preadmission or continued stay review in a timely manner will result in a retrospective review being conducted by the Department. If the retrospective review determines the admission is medically necessary, the Department will assess a penalty to the hospital as specified in Subsection 705.02 of this rule. The primary care physician will be assessed a penalty for failure to request a preadmission review in a timely manner as specified in Subsection 705.03 of this rule. A physician who provides hospital care but has no control over the admission, continued stay, or discharge of the participant is not subject to this penalty. (7-1-06)T

01. Payment. Reimbursement for the participant's admission and length of stay is subject to preadmission, concurrent or retrospective review by the Department. The hospital and the participant's physician are responsible for obtaining the required review. If such review identifies that an admission or continued stay is not medically necessary, then no Medicaid payment will be made. (7-1-06)T

a. In reimbursing for inpatient hospital psychiatric services the Department will pay the ~~lessor~~ *lessor* of customary charges or the reasonable cost of semi-private rates for inpatient hospital care in accordance with the rules set forth in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (7-1-06)T(7-1-06)T

Sections 707 through 719

~~707-709. (RESERVED).~~

740Z. MENTAL HEALTH CLINIC SERVICES - DEFINITIONS.

01. Adult. An adult is an individual who is eighteen (18) years of age or older for the purposes of Mental Health Clinic and other outpatient mental health services. (7-1-06)T

02. Mental Health Clinic. A mental health clinic, also referred to as "agency," must be a proprietorship, partnership, corporation, or other entity, in a distinct location, employing at least two (2) staff qualified to deliver clinic services under this rule and operating under the direction of a physician. (7-1-06)T

03. Psychiatric Nurse, Licensed Master's Level. A certified psychiatric nurse, Clinical Nurse

Specialist or Psychiatric Nurse Practitioner, must be licensed in accordance with Title 54, Chapter 14, Idaho Code, or certified by a recognized national certification organization, and have a minimum of a master's degree. (7-1-06)T

04. Psychological Testing. Psychological testing refers to any measurement procedure for assessing psychological characteristics in which a sample of an examinee's behavior is obtained and subsequently evaluated and scored using a standardized process. This does not refer to assessments that are otherwise conducted by a professional within the scope of his license for the purposes of determining a participant's mental status, diagnoses or functional impairments. (7-1-06)T

05. Social History. *A social history contains a description of the reason(s) the participant is seeking services, a description of his current symptoms, present life circumstances, recent events, his resources, and barriers to mental health treatment.* (7-1-06)T

~~748~~708. MENTAL HEALTH CLINIC SERVICES - PARTICIPANT ELIGIBILITY.

If an individual who is not eligible for medical assistance receives intake services from any staff not having the required degree(s) as provided in Subsection ~~714.13~~ 715.03 of these rules, and later becomes eligible for medical assistance, a new intake assessment and individualized treatment plan will be required which must be developed by a qualified staff person and authorized prior to any reimbursement. (~~7-1-06~~)T(7-1-06)T

709. MENTAL HEALTH CLINIC SERVICES - WRITTEN INDIVIDUALIZED TREATMENT PLAN.

A written individualized treatment plan is a medically-ordered plan of care. An individualized treatment plan must be developed and implemented for each participant receiving mental health clinic services. Treatment planning is reimbursable if conducted by a qualified professional identified in Subsection 715.03 of these rules. (7-1-06)T

01. Individualized Treatment Plan Development. *The individualized treatment plan must be developed by the following:* (7-1-06)T

a. *The clinic staff providing the services; and* (7-1-06)T

b. *The adult participant, if capable, and the adult participant's legal guardian, or in the case of a minor the minor's parent or legal guardian. The participant or his parent or legal guardian may also choose others to participate in the development of the plan.* (7-1-06)T

02. Individualized Treatment Plan Requirements. *An individualized treatment plan must include, at a minimum, the following:* (7-1-06)T

a. *Statement of the overall goals and concrete, measurable treatment objectives to be achieved by the participant, including time frames for completion. The goals and objectives must be individualized and must be directly related to the clinic service needs that are identified in the assessment.* (7-1-06)T

b. *Documentation of who participated in the development of the individualized treatment plan.* (7-1-06)T

i. *The authorizing physician must sign and date the plan within thirty (30) calendar days of the initiation of treatment.* (7-1-06)T

ii. *The adult participant, the adult participant's legal guardian, or in the case of a minor the minor's parent or legal guardian must sign the treatment plan indicating their participation in its development. If these signatures indicating participation in the development of the treatment plan are not obtained, then the agency must document in the participant's record the reason the signatures were not obtained, including the reason for the participant's refusal to sign. A copy of the treatment plan must be given to the adult participant and his legal guardian or to his parent or legal guardian if the participant is a minor.* (7-1-06)T

iii. *Other individuals who participated in the development of the treatment plan must sign the plan.* (7-1-06)T

iv. *The author of the treatment plan must sign the plan and include his title and credentials.* (7-1-06)T

c. The diagnosis of the participant must be documented by an examination and be made by a licensed physician or other licensed practitioner of the healing arts, licensed psychologist, licensed clinical professional counselor, licensed clinical social worker, or licensed marriage and family therapist within the scope of his practice under state law; and (7-1-06)T

d. A problem list, and the type, frequency, and duration of treatment estimated to achieve all objectives based on the ability of the participant to effectively utilize services. (7-1-06)T

03. Treatment Plan Review. The treatment plan review by the clinic and the participant must occur within one hundred twenty (120) days and every one hundred twenty (120) days thereafter. During the review, the clinic staff providing the services and the participant must review progress made on objectives and identify objectives that may be added, amended, or deleted from the individualized treatment plan. The attendees of the treatment plan review are determined by the adult participant or his legal guardian, or in the case of a minor his parent or legal guardian and clinic staff providing the services. (7-1-06)T

04. Physician Review of Treatment Plan. Each individualized treatment plan must be reviewed and be completely rewritten and signed by a physician at least annually. Changes in the types or amount of services that are determined during treatment plan reviews must be reviewed and signed by a physician. Projected dates for the participant's reevaluation and the rewrite of the individualized treatment plan must be recorded on the treatment plan. (7-1-06)T

05. Continuation of Services. Continuation of services after the first year must be based on documentation of the following: (7-1-06)T

a. Description of the ways the participant has specifically benefited from clinic services, and why he continues to need additional clinical services; and (7-1-06)T

b. The participant's progress toward the achievement of therapeutic goals that would eliminate the need for the service to continue. (7-1-06)T

7120. MENTAL HEALTH CLINIC SERVICES - COVERAGE AND LIMITATIONS.

All mental health clinic services must be provided at the clinic unless provided to an eligible homeless individual. (7-1-06)T

01. Clinic Services -- Mental Health Clinics (MHC). Under 42 CFR 440.90, the Department will pay for preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services provided by a mental health clinic to a participant who is not an inpatient in a hospital or nursing home or correctional facility except as specified under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 229. (7-1-06)T

02. ~~Care and~~ Services ~~or~~ Supplies in Mental Health Clinics That Are Not Reimbursed. ~~(7-1-06)T~~

~~a.~~ ~~Inpatient Medical Facilities.~~ ~~The Medical Assistance Program will not pay for mental health clinic services rendered to medical assistance participants residing in inpatient medical facilities including nursing homes, hospitals, or public institutions as defined in 42 CFR 435.1009; or~~ (7-1-06)T

~~b.~~ ~~Scope.~~ Any service or supplies not included as part of the allowable scope of the Medical Assistance Program; ~~or~~ (7-1-06)T(7-1-06)T

~~c.~~ ~~Non-Qualified Persons.~~ ~~Services provided within the mental health clinic framework by persons other than those qualified to deliver services as specified in Subsection 714.07 of these rules.~~ (7-1-06)T

03. Evaluation and Diagnostic Services in Mental Health Clinics. (7-1-06)T

a. Social History. Social History is a reimbursable evaluation and diagnostic service. (7-1-06)T

~~a~~b. Psychological Testing. Psychological testing may be provided as a reimbursable service when

provided in direct response to a specific evaluation question. ~~(7-1-06)T~~

~~b.~~ The psychological report must contain the reason for the performance of this service. ~~(7-1-06)T~~

~~c.~~ Agency staff may deliver this service if they meet one (1) of the following qualifications:
~~(7-1-06)T(7-1-06)T~~

i. Licensed Psychologist; (7-1-06)T

ii. Psychologist extenders as described in IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners"; or (7-1-06)T

iii. A qualified therapist listed in Subsection ~~714.15~~ 715.03 of these rules who has documented evidence of education or training qualifying him to administer, score, interpret, and report findings for the psychological test he will be performing. ~~(7-1-06)T(7-1-06)T~~

~~04c.~~ Psychiatric Diagnostic Interview Exam. A psychiatric diagnostic interview exam may be provided as a reimbursable service when delivered by one (1) of the following licensed professionals: (7-1-06)T

~~a.i.~~ Psychiatrist; (7-1-06)T

~~b.ii.~~ Physician; (7-1-06)T

~~c.iii.~~ Practitioner of the healing arts; (7-1-06)T

~~d.iv.~~ Psychologist; (7-1-06)T

~~e.v.~~ Clinical Social Worker; (7-1-06)T

~~f.vi.~~ Clinical Professional Counselor; or (7-1-06)T

~~g.vii.~~ Licensed Marriage and Family Therapist. (7-1-06)T

~~05d.~~ Evaluations Performed by Occupational Therapists. Evaluations performed by qualified registered occupational therapists, O.T.R., performed in conjunction with the development of an individualized treatment plan are reimbursable. (7-1-06)T

~~06d.~~ **Limitations.** A total of twelve (12) hours is the maximum time allowed for a combination of any evaluative or diagnostic services and individualized treatment plan development provided to an eligible participant in a calendar year. (7-1-06)T

~~075.~~ **Treatment Services in Mental Health Clinics.** (7-1-06)T

a. Psychotherapy. Individual and group psychotherapy must be provided in accordance with the goals specified in the individualized treatment plan. (7-1-06)T

b. Family Psychotherapy. Family psychotherapy services must include at least ~~two~~ the participant and one (21) family members and must be delivered in accordance with the goals of treatment as specified in the individualized treatment plan. ~~(7-1-06)T(7-1-06)T~~

c. Emergency Services. Individual emergency psychotherapy services can be provided by qualified clinic staff at any time. (7-1-06)T

i. Emergency services provided to an eligible participant prior to intake and evaluation is a reimbursable service but must be fully documented in the participant's record; and (7-1-06)T

ii. Each emergency service will be counted as a unit of service and part of the allowable limit per

participant unless the contact results in hospitalization. Provider agencies may submit claims for the provision of psychotherapy in emergency situations even when contact does not result in the hospitalization of the participant.

(7-1-06)T

~~406.~~ **Collateral ~~Contractor or Consultation~~ Contact.** Collateral contact will be covered by Medicaid if it is conducted face to face by agency staff qualified to deliver clinical services, and if it is included on the individualized treatment plan and is necessary to gather and exchange information with individuals having a primary relationship to the participant.

~~(7-1-06)T~~(7-1-06)T

~~087.~~ **Psychotherapy Limitations.** Psychotherapy services as set forth in Subsections ~~712.07.a-710.05.a.~~ through ~~713.07.e.~~ 710.09.b. of this rule are limited as described under Subsection ~~712.H~~ 710.10 of this rule.

~~(7-1-06)T~~(7-1-06)T

~~098.~~ **Pharmacological Management.** Pharmacological management consultations must be provided by a physician or other practitioner of the healing arts within the scope of practice defined in their license in direct contact with the participant.

(7-1-06)T

a. Consultation must be for the purpose of prescribing, monitoring, and/or administering medication as part of the individualized treatment plan; and

(7-1-06)T

b. Pharmacological management, if provided, must be part of the individualized treatment plan and frequency and duration of the treatment must be specified.

(7-1-06)T

~~402.~~ **Nursing Services.** Nursing services, when physician ordered and supervised, can be part of the participant's individualized treatment plan.

(7-1-06)T

a. Licensed and qualified nursing personnel can supervise, monitor, and administer medication within the limits of the Nurse Practice Act, Section 54-1402(d), Idaho Code; and

(7-1-06)T

b. The frequency and duration of the treatment must be specified on the participant's individualized treatment plan.

(7-1-06)T

~~140.~~ **Limits on Mental Health Clinic Services.** Services provided by Mental Health Clinics are limited to twenty-six (26) services per calendar year. This is for any combination of evaluation, diagnosis and treatment services. This limitation is in addition to any and all other service limitations described in these rules.

(7-1-06)T

711. MENTAL HEALTH CLINIC SERVICES - EXCLUDED SERVICES NOT REIMBURSABLE UNDER MEDICAID.

01. Inpatient Medical Facilities. *The Medical Assistance Program will not pay for mental health clinic services rendered to medical assistance participants residing in inpatient medical facilities including nursing homes, hospitals, or public institutions as defined in 42 CFR 435.1009; or*

(7-1-06)T

02. Non-Reimbursable. *Any service not adequately documented in the participant's record by the signature of the therapist providing the therapy or participant contact, the length of the therapy session, and the date of the contact, will not be reimbursed by the Department.*

(7-1-06)T

03. Non-Eligible Staff. *Any treatment or contact provided as a result of an individualized treatment plan that is performed by any staff other than those qualified to deliver services under Subsection 715.03 of these rules is not be eligible for reimbursement by the Department.*

(7-1-06)T

04. Recoupment. *If a record is determined not to meet minimum requirements as set forth herein, any payments made on behalf of the participant are subject to recoupment.*

(7-1-06)T

712. MENTAL HEALTH CLINIC SERVICES - CREDENTIALING RESPONSIBILITIES OF THE DEPARTMENT.

The Department is phasing in the Credentialing Program in 2006. During the first three (3) years of development the

following will take place:

(7-1-06)T

01. Reimbursement. A mental health clinic must be designated as credentialed or provisionally credentialed in order to receive Medicaid reimbursement for services. Any agency that fails to maintain credentialed status will have its Medicaid provider agreement terminated. (7-1-06)T

02. Application. All existing providers and new provider applicants must submit an application for credentialing that will be reviewed in order to proceed with the credentialing process and obtain the required credential by the Department. All initial applications will be responded to within thirty (30) days. If the application is incomplete, the applicant must submit the additional information for the application to be considered further. The application will be reviewed up to three (3) times. If the applicant has not provided the required information by the third submittal, then the application will be denied and the application will not be considered again for twelve (12) months. (7-1-06)T

03. Temporary Credentialed Status. In order for existing providers to be able to continue to provide services during these first three (3) years the Department will grant a one-time temporary credential to all existing providers. (7-1-06)T

04. New Providers. Once the Credentialing Program is initiated new provider applicants will be required to submit an application and successfully complete the credentialing process as a condition for Department approval as a Medicaid provider. (7-1-06)T

05. Elements of Credentialing. The initial credentialing process consists of the application and an on-site review for compliance with the requirements of these rules. (7-1-06)T

06. Deemed Status. Providers accredited by private accreditation agencies, such as the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) or Commission on the Accreditation of Rehabilitation Facilities (CARF), will be exempt from credentialing processes that the Department deems redundant. (7-1-06)T

07. Expiration and Renewal of Credentialed Status. Credentials issued under these rules will be issued for a period up to three (3) years. Unless suspended or revoked, the agency's credential will expire on the date designated by the Department. No later than ninety (90) days before expiration, an agency must apply for renewal of credentials. A site review may be conducted by the Department for renewal applications. (7-1-06)T

08. Provisional Credentialed Status. If a new or renewal applicant is found deficient in one (1) or more of the requirements for credentialing, but does not have deficiencies that jeopardize the health and safety of the participants or substantially affect the provider's ability to provide services, a provisional credential may be issued. Provisional credentials will be issued for a period not to exceed one hundred eighty (180) days. During that time, the Department will determine whether the deficiencies have been corrected. If so, then the agency will be credentialed. If not, then the credential will be denied or revoked. (7-1-06)T

09. Denial or Revocation of Credentialed Status. The Department may deny or revoke credentials when conditions exist that endanger the health, safety, or welfare of any participant or when the agency is not in substantial compliance with these rules. Additional causes for denial of credentials include the following: (7-1-06)T

a. The provider agency or provider agency applicant has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining credentialed status; (7-1-06)T

b. The provider agency or provider agency applicant has been convicted of or is currently under investigation for fraud, gross negligence, abuse, assault, battery or exploitation; (7-1-06)T

c. The provider agency or provider agency applicant has been convicted of a criminal offense within the past five (5) years other than a minor traffic violation or similar minor offense; (7-1-06)T

d. The provider agency or provider agency applicant has been denied or has had revoked any health

facility license or certificate: (7-1-06)T

e. A court has ordered that any provider agency owner or provider agency applicant must not operate a health facility, residential care or assisted living facility, or certified family home: (7-1-06)T

f. Any owners, employees, or contractors of the provider agency or provider agency applicant are listed on the statewide Child Abuse Registry, Adult Protection Registry, Sexual Offender Registry, or Medicaid exclusion lists: (7-1-06)T

g. The provider agency or provider agency applicant is directly under the control or influence, whether financial or other, of any person who is described in Subsections 712.09.a. through 712.09.f. of this rule. (7-1-06)T

10. Procedure for Appeal of Denial or Revocation of Credentials. Immediately upon denial or revocation of credentials, the Department will notify the applicant or provider in writing by certified mail or by personal service of its decision, the reason for its decision, and how to appeal the decision. The appeal is subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (7-1-06)T

~~713. MENTAL HEALTH CLINIC SERVICES – PROCEDURAL REQUIREMENTS:~~

~~01. Medical Psychosocial Histories. Medical psychosocial intake histories must be contained in all case files.~~ (7-1-06)T

~~02. Individualized Treatment Plan for Mental Health Clinic Services. A written individualized treatment plan is a medically ordered plan of care. An individualized treatment plan must be developed and implemented for each participant receiving mental health clinic services. Treatment planning is reimbursable if conducted by a qualified professional identified in Subsection 714.07 of these rules.~~ (7-1-06)T

~~a. Individualized Treatment Plan Development. The individualized treatment plan must be developed by the following:~~ (7-1-06)T

~~i. The clinic staff providing the services; and~~ (7-1-06)T

~~ii. The adult participant, if capable, and the adult participant's legal guardian, or, in the case of a minor, the minor's parent or legal guardian. The participant or his parent or legal guardian may also choose others to participate in the development of the plan.~~ (7-1-06)T

~~b. Individualized Treatment Plan Requirements. An individualized treatment plan must include the following, at a minimum:~~ (7-1-06)T

~~i. Statement of the overall goals and concrete, measurable treatment objectives to be achieved by the participant, including time frames for completion. The goals and objectives must be individualized and must be directly related to the clinic service needs that are identified in the assessment.~~ (7-1-06)T

~~ii. Documentation of who participated in the development of the individualized treatment plan.~~ (7-1-06)T

~~(1) The authorizing physician must sign and date the plan within (30) thirty calendar days from the initiation of treatment.~~ (7-1-06)T

~~(2) The adult participant, the adult participant's legal guardian or, in the case of a minor, the minor's parent or legal guardian, must sign the treatment plan indicating their participation in its development. If these signatures indicating participation in the development of the treatment plan are not obtained, then the agency must document in the participant's record the reason the signatures were not obtained, including the reason for the participant's refusal to sign. A copy of the treatment plan must be given to the adult participant and his legal guardian or to his parent or legal guardian if the participant is a minor.~~ (7-1-06)T

- ~~(3) Other individuals who participated in the development of the treatment plan must sign the plan. (7-1-06)F~~
- ~~(4) The author of the treatment plan must sign the plan and include his title and credentials. (7-1-06)F~~
- ~~iii. The diagnosis of the participant must be documented by an examination and be made by a licensed physician or other licensed practitioner of the healing arts, licensed psychologist, licensed clinical professional counselor, or licensed clinical social worker within the scope of his practice under state law; and (7-1-06)F~~
- ~~iv. A problem list, and the type, frequency, and duration of treatment estimated to achieve all objectives based on the ability of the participant to effectively utilize services. (7-1-06)F~~
- ~~e. Treatment Plan Review. The treatment plan review by the clinic and the participant must occur within one hundred twenty (120) days and every one hundred twenty (120) days thereafter. During the review, the clinic staff providing the services and the participant must review progress made on objectives and identify objectives that may be added, amended, or deleted from the individualized treatment plan. The attendees of the treatment plan review are determined by the adult participant or his legal guardian, or, in the case of a minor, his parent or legal guardian and clinic staff providing the services. (7-1-06)F~~
- ~~d. Physician Review of Treatment Plan. Each individualized treatment plan must be reviewed and be completely rewritten and signed by a physician at least annually. Changes in the types or amount of services that are determined during treatment plan reviews must be reviewed and signed by a physician. Projected dates for the participant's reevaluation and the rewrite of the individualized treatment plan must be recorded on the treatment plan. (7-1-06)F~~
- ~~e. Authorization for Services. Authorization for services after the first year must be based on documentation of the following: (7-1-06)F~~
- ~~i. Description of the ways the participant has specifically benefited from clinic services, and why he continues to need additional clinical services; and (7-1-06)F~~
- ~~ii. The participant's progress toward the achievement of therapeutic goals that would eliminate the need for the service to continue. (7-1-06)F~~
- ~~03. Informed Consent. The agency must ensure that participants who receive services through the agency have obtained informed consent from the participant or his legal guardian indicating agreement with all of the elements on the individualized treatment plan including choice of the provider agency, designated services, times, dates, frequencies, objectives, goals, and exit criteria. For minors, informed consent must be obtained from the minor's parent or legal guardian. (7-1-06)F~~
- ~~04. Documentation. All intake histories, psychiatric evaluations, psychological testing, or specialty evaluations must be in written form, dated, and fully signed to certify when completed and by whom, and retained in the participant's file for documentation purposes. (7-1-06)F~~
- ~~05. Data. All data gathered must be directed towards formulation of a written diagnosis, problem list, and individualized treatment plan which specifies the type, frequency, and anticipated duration of treatment. (7-1-06)F~~
- ~~06. Record Keeping Requirements for Mental Health Clinics. (7-1-06)F~~
- ~~a. Maintenance. Each mental health clinic will be required to maintain records on all services provided to medical assistance participants. (7-1-06)F~~
- ~~b. Record Contents. The records must contain the current individualized treatment plan ordered by a physician and must meet the requirements as set forth in Subsection 713.02 of this rule. (7-1-06)F~~

- ~~e. Requirements. The records must: (7-1-06)F~~
- ~~i. Specify the exact type of treatment provided; and (7-1-06)F~~
- ~~ii. Who the treatment was provided by; and (7-1-06)F~~
- ~~iii. Specify the duration of the treatment and the time of day delivered; and (7-1-06)F~~
- ~~iv. Contain detailed records which outline exactly what occurred during the therapy session or participant contact documented by the person who delivered the service; and (7-1-06)F~~
- ~~v. Contain the legible, dated signature, with degree credentials listed, of the staff member performing the service. (7-1-06)F~~
- ~~d. Non-Reimbursable. Any service not adequately documented in the participant's record by the signature of the therapist providing the therapy or participant contact, the length of the therapy session, and the date of the contact, will not be reimbursed by the Department. (7-1-06)F~~
- ~~e. Non-Eligible Staff. Any treatment or contact provided as a result of an individualized treatment plan that is performed by any staff other than those qualified to deliver services under Subsection 714.07 of these rules is not be eligible for reimbursement by the Department.. (7-1-06)F~~
- ~~f. Recoupment. If a record is determined not to meet minimum requirements as set forth herein any payments made on behalf of the participant are subject to recoupment. (7-1-06)F~~

713. MENTAL HEALTH CLINIC SERVICES - PROVIDER RESPONSIBILITIES.

01. Effectiveness of Services. *Effectiveness of services, as measured by a participant's achievement of his plan objectives, must be monitored by the provider and changes to the individualized treatment plan must be initiated when service needs change or interventions are shown to be ineffective. These measures must be included on the participant's one hundred twenty (120) day review. (7-1-06)F*

02. Healthy Connections Referral. *Providers must obtain a Healthy Connections referral if the participant is enrolled in the Healthy Connections program. (7-1-06)F*

714. MENTAL HEALTH CLINIC SERVICES - PROVIDER QUALIFICATIONS AND DUTIES.

Each agency that enters into a provider agreement with the Department for the provision of mental health clinic services must meet the following requirements: (7-1-06)F

01. Mental Health Clinic. *Each location of the agency must meet the requirements under this rule. (7-1-06)F*

02. Credentialing. *The Department is phasing in the Credentialing Program in 2006. During the first three (3) years of development the following will take place: (7-1-06)F*

a. Reimbursement. *A mental health clinic must be designated as credentialed or provisionally credentialed in order to receive Medicaid reimbursement for services. Any agency that fails to maintain credentialed status will have its Medicaid provider agreement terminated. (7-1-06)F*

b. Application. *All existing providers and new provider applicants must submit an application for credentialing that will be reviewed in order to proceed with the credentialing process and obtain the required credential by the Department. All initial applications will be responded to within thirty (30) days. If the application is complete, the applicant must submit the additional information for the application to be considered further. The application will be reviewed up to three (3) times. If the applicant has not provided the required information by the third submittal then the application will be denied and the application will not be considered again for twelve (12) months. (7-1-06)F*

- ~~e. Temporary Credentialed Status. In order for existing providers to be able to continue to provide services during these first three (3) years the Department will grant a one-time temporary credential to all existing providers. (7-1-06)F~~
- ~~d. New Providers. Once the Credentialing Program is initiated new provider applicants will be required to submit an application and successfully complete the credentialing process as a condition for Department approval as a Medicaid provider. (7-1-06)F~~
- ~~e. Elements of Credentialing. The initial credentialing process consists of the application and an on-site review for compliance with the requirements of these rules. (7-1-06)F~~
- ~~f. Deemed Status. Providers accredited by private accreditation agencies, such as the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) or Commission on the Accreditation of Rehabilitation Facilities (CARF), will be exempt from credentialing processes that the Department deems redundant. (7-1-06)F~~
- ~~g. Expiration and Renewal of Credentialed Status. Credentials issued under these rules will be issued for a period up to three (3) years. Unless suspended or revoked, the agency's credential will expire on the date designated by the Department. No later than ninety (90) days before expiration, an agency may apply for renewal of credentials. A site review may be conducted by the Department for renewal applications. (7-1-06)F~~
- ~~h. Provisional Credentialed Status. If a new or renewal applicant is found deficient in one (1) or more of the requirements for credentialing, but does not have deficiencies that jeopardize the health and safety of the participants or substantially affect the provider's ability to provide services, a provisional credential may be issued. Provisional credentials will be issued for a period not to exceed one hundred and eighty (180) days. During that time, the Department will determine whether the deficiencies have been corrected. If so, then the agency will be credentialed. If not, then the credential will be denied or revoked. (7-1-06)F~~
- ~~i. Denial, or Revocation of Credentialed Status. The Department may deny or revoke credentials when conditions exist that endanger the health, safety, or welfare of any participant or when the agency is not in substantial compliance with these rules. Additional causes for denial of credentials include the following: (7-1-06)F~~
- ~~i. The provider agency or provider agency applicant has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining credentialed status; (7-1-06)F~~
- ~~ii. The provider agency or provider agency applicant has been convicted of, or is currently under investigation for fraud, gross negligence, abuse, assault, battery or exploitation; (7-1-06)F~~
- ~~iii. The provider agency or provider agency applicant has been convicted of a criminal offense within the past five (5) years, other than a minor traffic violation or similar minor offense; (7-1-06)F~~
- ~~iv. The provider agency or provider agency applicant has been denied or has had revoked any health facility license, or certificate; (7-1-06)F~~
- ~~v. A court has ordered that any provider agency owner or provider agency applicant must not operate a health facility, residential care or assisted living facility, or certified family home; (7-1-06)F~~
- ~~vi. Any owners, employees, or contractors of the provider agency or provider agency applicant are listed on the statewide Child Abuse Registry, Adult Protection Registry, Sexual Offender Registry, or Medicaid exclusion lists; (7-1-06)F~~
- ~~vii. The provider agency or provider agency applicant is directly under the control or influence, whether financial or other, of any person who is described in Subsections 714.02.i.i. through 714.02.i.vi. of this rule. (7-1-06)F~~
- ~~j. Procedure for Appeal of Denial or Revocation of Credentials. Immediately upon denial or~~

~~revocation of credentials, the Department will notify the applicant or provider in writing by certified mail or by personal service of its decision, the reason for its decision, and how to appeal the decision. The appeal is subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings."~~ (7-1-06)F

~~**03. Physician Requirement for Clinic Supervision.** In order to fulfill the requirement that the clinic be under the direction of a physician, the clinic must have a contract with the physician.~~ (7-1-06)F

~~**a.** The contract must specifically require that the physician spend as much time in the clinic as is necessary to assure that participants are receiving services in a safe and efficient manner in accordance with accepted standards of medical practice.~~ (7-1-06)F

~~**b.** The supervising physician of the clinic may also serve as the supervising physician of a participant's care.~~ (7-1-06)F

~~**04. Physician Requirement for Supervision of a Participant's Care.** Each participant's care must be under the supervision of a physician directly affiliated with the clinic. Documentation of the affiliation must be kept in the clinic location. The clinic may have as many physician affiliations as is necessary in order to meet the needs of the volume of participants served in that location. The physician who supervises a participant's care does not have to deliver this service at the clinic nor does the physician have to be present at the clinic when the participant receives services at the clinic. In order to fulfill the requirement for physician supervision of a participant's care, the following conditions must also be met:~~ (7-1-06)F

~~**a.** The clinic and the physician must enter into a formal arrangement in which the physician must assume professional responsibility for the services provided;~~ (7-1-06)F

~~**b.** The physician must see the participant at least once to determine the medical necessity and appropriateness of clinic services;~~ (7-1-06)F

~~**c.** The physician must review and sign the individualized treatment plan as an indicator that the services are prescribed; and~~ (7-1-06)F

~~**d.** The physician must review and sign all updates to the individualized treatment plan that involve changes in the types or amounts of services.~~ (7-1-06)F

~~**05. Assessment.** All treatment in mental health clinics must be based on an individualized assessment of the patient's needs, including a current mental status examination, and provided under the direction of a licensed physician.~~ (7-1-06)F

~~**06. Criminal History Checks.**~~ (7-1-06)F

~~**a.** The agency must verify that all employees, subcontractors, or agents of the agency providing direct care or clinical services have complied with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks."~~ (7-1-06)F

~~**b.** Once an employee, subcontractor, or agent of the agency has completed a self-declaration form and has been fingerprinted, he may begin working for the agency on a provisional basis while awaiting the results of the criminal history check.~~ (7-1-06)F

~~**c.** Once an employee, subcontractor, or agent of the agency has received a criminal history clearance, any additional criminal convictions must be reported to the Department when the agency learns of the conviction.~~ (7-1-06)F

~~**07. Staff Qualifications.** The mental health clinic must assure that each agency staff person delivering clinical services to eligible medical assistance participants has, at a minimum, one (1) or more of the following qualifications:~~ (7-1-06)F

- ~~a. Licensed Psychiatrist; (7-1-06)F~~
- ~~b. Licensed Physician or licensed practitioner of the healing arts; (7-1-06)F~~
- ~~c. Licensed Psychologist; (7-1-06)F~~
- ~~d. Psychologist extender, registered with the Bureau of Occupational Licenses; (7-1-06)F~~
- ~~e. Licensed Masters Social Worker; (7-1-06)F~~
- ~~f. Licensed Clinical Social Worker; (7-1-06)F~~
- ~~g. Licensed Social Worker; (7-1-06)F~~
- ~~h. Licensed Clinical Professional Counselor; (7-1-06)F~~
- ~~i. Licensed Professional Counselor; (7-1-06)F~~
- ~~j. Licensed Marriage and Family Therapist; (7-1-06)F~~
- ~~k. Certified Psychiatric Nurse, R.N., as described in Subsection 710.03 of these rules; (7-1-06)F~~
- ~~l. Licensed Professional Nurse, R.N.; or (7-1-06)F~~
- ~~m. Registered Occupational Therapist, O.T.R. (7-1-06)F~~
- ~~08. **Support Staff.** For the purposes of this rule, support staff is any person who does not meet the qualifications of professionals as listed in Subsection 714.07 of this rule. The agency may elect to employ support staff to provide support services to participants. Such support services may include providing transportation, cooking and serving meals, cleaning and maintaining the physical plant, or providing general, non-professional supervision. Support staff must not deliver or assist in the delivery of services that are reimbursable by Medicaid. (7-1-06)F~~
- ~~09. **Agency Employees and Subcontractors.** Employees and subcontractors of the agency are subject to the same conditions, restrictions, qualifications and rules as the agency. (7-1-06)F~~
- ~~10. **Supervision.** The agency must ensure that staff providing clinical services are supervised according to the following guidelines: (7-1-06)F~~
- ~~a. Standards and requirements for supervision set by the Bureau of Occupational Licenses are met; (7-1-06)F~~
- ~~b. Case-specific supervisory contact must be made weekly, at a minimum, with staff for whom supervision is a requirement; and (7-1-06)F~~
- ~~c. Documentation of supervision must be maintained by the agency and be available for review by the Department. (7-1-06)F~~
- ~~11. **Continuing Education.** The agency must ensure that all staff complete twenty (20) hours of continuing education annually in the field in which they are licensed. Documentation of the continuing education hours must be maintained by the agency and be available for review by the Department. Nothing in these rules will affect professional licensing continuing education standards and requirements set by the Bureau of Occupational Licenses. (7-1-06)F~~
- ~~12. **Ethics.** (7-1-06)F~~
- ~~a. The provider must adopt, adhere to and enforce among its staff who are providing Medicaid reimbursable services a Code of Ethics similar to or patterned after one (1) of the following: (7-1-06)F~~

- ~~i. US Psychiatric Rehabilitation Association Code of Ethics found at <http://www.uspra.org/i4a/pages/index.cfm?pageid=3601>; (7-1-06)T~~
- ~~ii. National Association of Social Workers Code of Ethics found at <http://www.naswde.org/pubs/code/default.asp>; (7-1-06)T~~
- ~~iii. American Psychological Association Code of Ethics found at <http://www.apa.org/ethics/code.html>; (7-1-06)T~~
- ~~iv. American Counseling Association Code of Ethics found at <http://www.counseling.org/Resources/CodeOfEthics/TP/Home/CT2.aspx>. (7-1-06)T~~
- ~~v. Marriage and Family Therapists Code of Ethics found at www.aamft.org/resources/lrmpplan/ethics/ethicscode2001.asp. (7-1-06)T~~
- ~~b. Evidence of the Agency's Code of Ethics, the discipline(s) upon which it is modeled, and each staff member's training on the code must be submitted to the Department upon request. (7-1-06)T~~
- ~~c. The Provider must develop a schedule for providing ethics training to its staff. (7-1-06)T~~
- ~~d. The ethics training schedule must provide that new employees receive the training during their first year of employment, and that all staff receive ethics training no less than four (4) hours every four (4) years thereafter. (7-1-06)T~~
- ~~13. **Qualified Therapist.** The medical psychosocial intake and plan development is reimbursable if conducted by a primary therapist who, at a minimum, has one (1) or more of the following qualifications: (7-1-06)T~~
 - ~~a. Licensed Psychologist; or (7-1-06)T~~
 - ~~b. Psychologist extender, registered with the Bureau of Occupational Licenses; or (7-1-06)T~~
 - ~~c. Licensed Masters Social Worker, or Licensed Clinical Social Worker, or Licensed Social Worker; or (7-1-06)T~~
 - ~~d. Certified Psychiatric Nurse, R.N.; or (7-1-06)T~~
 - ~~e. Licensed Clinical Professional Counselor or Licensed Professional Counselor; or (7-1-06)T~~
 - ~~f. Licensed Physician or Licensed Psychiatrist; or (7-1-06)T~~
 - ~~g. Licensed Marriage and Family Therapist; or (7-1-06)T~~
 - ~~h. Licensed Professional Nurse (RN). (7-1-06)T~~
- ~~14. **Non-Qualified Staff.** Any delivery of evaluation, diagnostic service, or treatment designed by any person other than an agency staff person designated as qualified under Sections 712 or 714 of these rules, is not eligible for reimbursement under the Medical Assistance Program. (7-1-06)T~~
- ~~15. **Staff Qualifications for Psychotherapy Services.** Licensed, qualified professionals providing psychotherapy services as set forth in Subsections 712.07.a. through 712.07.e. of these rules must have, at a minimum, one (1) or more of the following degrees: (7-1-06)T~~
 - ~~a. Licensed Psychiatrist; or (7-1-06)T~~
 - ~~b. Licensed Physician; or (7-1-06)T~~

- ~~e. Licensed Psychologist; or (7-1-06)F~~
- ~~d. Licensed Clinical Social Worker; or (7-1-06)F~~
- ~~e. Licensed Clinical Professional Counselor; or (7-1-06)F~~
- ~~f. Licensed Marriage and Family Therapist; (7-1-06)F~~
- ~~g. Certified Psychiatric Nurse (RN), as described in Subsection 710.03 of these rules; (7-1-06)F~~
- ~~h. Licensed Professional Counselor whose provision of psychotherapy is supervised by persons qualified under Subsections 714.15.a. through 714.15.g. of this rule; (7-1-06)F~~
- ~~i. Licensed Masters Social Worker whose provision of psychotherapy is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; or (7-1-06)F~~
- ~~j. A Psychologist Extender, registered with the Bureau of Occupational Licenses. (7-1-06)F~~
- ~~16. **Building Standards For Mental Health Clinics.** (7-1-06)F~~
 - ~~a. **Accessibility.** Mental health clinic service providers must be responsive to the needs of the service area and persons receiving services and accessible to persons with disabilities as defined in Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act, and the uniform federal accessibility standard. (7-1-06)F~~
 - ~~b. **Environment.** Clinics must be designed and equipped to meet the needs of each participant including, but not limited to, factors such as sufficient space, equipment, lighting and noise control. (7-1-06)F~~
 - ~~c. **Capacity.** Clinics must provide qualified staff as listed in Subsection 714.07 of this rule to meet a staff to participant ratio that ensures safe, effective and clinically appropriate interventions. (7-1-06)F~~
 - ~~d. **Fire and Safety Standards.** (7-1-06)F~~
 - ~~i. Clinic facilities must meet all local and state codes concerning fire and life safety. The owner/operator must have the facility inspected at least annually by the local fire authority. In the absence of a local fire authority, such inspections must be obtained from the Idaho State Fire Marshall's office. A copy of the inspection must be made available upon request and must include documentation of any necessary corrective action taken on violations cited; and (7-1-06)F~~
 - ~~ii. The clinic facility must be structurally sound and must be maintained and equipped to assure the safety of participants, employees and the public; and (7-1-06)F~~
 - ~~iii. In clinic facilities where natural or man-made hazards are present, suitable fences, guards or railings must be provided to protect participants; and (7-1-06)F~~
 - ~~iv. Clinic facilities must be kept free from the accumulation of weeds, trash and rubbish; and (7-1-06)F~~
 - ~~v. Portable heating devices are prohibited except units that have heating elements that are limited to not more than two hundred twelve (212F) degrees Fahrenheit. The use of unvented, fuel-fired heating devices of any kind are prohibited. All portable space heaters must be U.L. approved as well as approved by the local fire or building authority; and (7-1-06)F~~
 - ~~vi. Flammable or combustible materials must not be stored in the clinic facility; and (7-1-06)F~~
 - ~~vii. All hazardous or toxic substances must be properly labeled and stored under lock and key; and (7-1-06)F~~

- ~~viii. Water temperatures in areas accessed by participants must not exceed one hundred twenty (120) degrees Fahrenheit; and (7-1-06)F~~
- ~~ix. Portable fire extinguishers must be installed throughout the clinic facility. Numbers, types and location must be directed by the applicable fire authority noted in Subsection 714.16.d. of this rule; and (7-1-06)F~~
- ~~x. Electrical installations and equipment must comply with all applicable local or state electrical requirements. In addition, equipment designed to be grounded must be maintained in a grounded condition and extension cords and multiple electrical outlet adapters must not be utilized unless U.L. approved and the numbers, location, and use of them are approved, in writing, by the local fire or building authority. (7-1-06)F~~
- ~~xi. There must be a telephone available on the premises for use in the event of an emergency. Emergency telephone numbers must be posted near the telephone or where they can be easily accessed; and (7-1-06)F~~
- ~~xii. Furnishings, decorations or other objects must not obstruct exits or access to exits. (7-1-06)F~~
- ~~e. Emergency Plans and Training Requirements. (7-1-06)F~~
- ~~i. Evacuation plans must be posted throughout the facility. Plans must indicate point of orientation, location of all fire extinguishers, location of all fire exits, and designated meeting area outside of building. (7-1-06)F~~
- ~~ii. There must be written policies and procedures covering the protection of all persons in the event of fire or other emergencies; and (7-1-06)F~~
- ~~iii. All employees must participate in fire and safety training upon employment and at least annually thereafter; and (7-1-06)F~~
- ~~iv. All employees and partial care participants must engage in quarterly fire drills. At least two (2) of these fire drills must include evacuation of the building; and (7-1-06)F~~
- ~~v. A brief summary of the fire drill and the response of the response of the employees and partial care participants must be written and maintained on file. The summary must indicate the date and time the drill occurred, problems encountered and corrective action taken. (7-1-06)F~~
- ~~f. Food Preparation and Storage. (7-1-06)F~~
- ~~i. If foods are prepared in the clinic facility, they must be stored in such a manner as to prevent contamination and be prepared by sanitary methods. (7-1-06)F~~
- ~~ii. Except during actual preparation time, cold perishable foods must be stored and served under forty-five (45F) degrees Fahrenheit and hot perishable foods must be stored and served over one hundred forty (140F) degrees Fahrenheit. (7-1-06)F~~
- ~~iii. Refrigerators and freezers used to store participant lunches and other perishable foods used by participants, must be equipped with a reliable, easily-readable thermometer. Refrigerators must be maintained at forty-five (45F) degrees Fahrenheit or below. Freezers must be maintained at zero (0F) to ten (10F) degrees Fahrenheit or below. (7-1-06)F~~
- ~~iv. When meals are prepared or provided for by the clinic, meals must be nutritional. (7-1-06)F~~
- ~~g. Housekeeping and Maintenance Services. (7-1-06)F~~
- ~~i. The interior and exterior of the clinic facility must be maintained in a clean, safe and orderly manner and must be kept in good repair; and (7-1-06)F~~

- ~~ii. Deodorizers cannot be used to cover odors caused by poor housekeeping or unsanitary conditions;~~
~~and (7-1-06)T~~
- ~~iii. All housekeeping equipment must be in good repair and maintained in a clean, safe and sanitary manner; and~~
~~(7-1-06)T~~
- ~~iv. The clinic facility must be maintained free from infestations of insects, rodents and other pests; and~~
~~(7-1-06)T~~
- ~~v. The clinic facility must maintain the temperature and humidity within a normal comfort range by heating, air conditioning, or other means.~~
~~(7-1-06)T~~
- ~~vi. Garbage will be disposed of in a sanitary manner. It must not be allowed to accumulate and must be placed in leak proof bags.~~
~~(7-1-06)T~~
- ~~h. Firearms. No firearms are permitted in the clinic facility.~~
~~(7-1-06)T~~
- ~~i. Plumbing. Restroom facilities must be maintained in good working order and available and accessible to participants while at the clinic in accordance with the Americans with Disabilities Act. This includes the presence of running water for operation of the toilet and washing hands.~~
~~(7-1-06)T~~
- ~~j. Lighting. Lighting levels must be maintained throughout the clinic facility which are appropriate to the service being provided.~~
~~(7-1-06)T~~
- ~~k. Drinking Water. Where the source is other than a public water system or commercially bottled, water quality must be tested and approved annually by the district health department.~~
~~(7-1-06)T~~

714. MENTAL HEALTH CLINIC SERVICES - PROVIDER AGENCY REQUIREMENTS.

Each agency that enters into a provider agreement with the Department for the provision of mental health clinic services must meet the following requirements: (7-1-06)T

- 01. Mental Health Clinic.** Each location of the agency must meet the requirements under this rule. (7-1-06)T
- 02. Physician Requirement for Clinic Supervision.** In order to fulfill the requirement that the clinic be under the direction of a physician, the clinic must have a contract with the physician. (7-1-06)T
- a.** The contract must specifically require that the physician spend as much time in the clinic as is necessary to assure that participants are receiving services in a safe and efficient manner in accordance with accepted standards of medical practice. (7-1-06)T
- b.** The supervising physician of the clinic may also serve as the supervising physician of a participant's care. (7-1-06)T
- 03. Physician Requirement for Supervision of a Participant's Care.** Each participant's care must be under the supervision of a physician directly affiliated with the clinic. Documentation of the affiliation must be kept in the clinic location. The clinic may have as many physician affiliations as is necessary in order to meet the needs of the volume of participants served in that location. The physician who supervises a participant's care does not have to deliver this service at the clinic nor does the physician have to be present at the clinic when the participant receives services at the clinic. In order to fulfill the requirement for physician supervision of a participant's care, the following conditions must also be met: (7-1-06)T
- a.** The clinic and the physician must enter into a formal arrangement in which the physician must assume professional responsibility for the services provided. (7-1-06)T
- b.** The physician must see the participant at least once to determine the medical necessity and appropriateness of clinic services; (7-1-06)T

c. The physician must review and sign the individualized treatment plan as an indicator that the services are prescribed; and (7-1-06)T

d. The physician must review and sign all updates to the individualized treatment plan that involve changes in the types or amounts of services. (7-1-06)T

04. **Assessment.** All treatment in mental health clinics must be based on an individualized assessment of the participant's needs, including a current mental status examination, and provided under the direction of a licensed physician. (7-1-06)T

05. **Criminal History Checks.** (7-1-06)T

a. The agency must verify that all employees, subcontractors, or agents of the agency providing direct care or clinical services have complied with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." (7-1-06)T

b. Once an employee, subcontractor, or agent of the agency has met the requirements specified in Subsection 009.02.a. of these rules, he may begin working for the agency on a provisional basis. (7-1-06)T

c. Once an employee, subcontractor, or agent of the agency has received a criminal history clearance, any additional criminal convictions must be reported to the Department when the agency learns of the conviction. (7-1-06)T

06. **Agency Employees and Subcontractors.** Employees and subcontractors of the agency are subject to the same conditions, restrictions, qualifications and rules as the agency. (7-1-06)T

07. **Supervision.** The agency must ensure that staff providing clinical services are supervised according to the following guidelines: (7-1-06)T

a. Standards and requirements for supervision set by the Bureau of Occupational Licenses are met; (7-1-06)T

b. Case-specific supervisory contact must be made weekly, at a minimum, with staff for whom supervision is a requirement; and (7-1-06)T

c. Documentation of supervision must be maintained by the agency and be available for review by the Department. (7-1-06)T

08. **Continuing Education.** The agency must ensure that all staff complete twenty (20) hours of continuing education annually in the field in which they are licensed. Documentation of the continuing education hours must be maintained by the agency and be available for review by the Department. Nothing in these rules will affect professional licensing continuing education standards and requirements set by the Bureau of Occupational Licenses. (7-1-06)T

09. **Ethics.** (7-1-06)T

a. The provider must adopt, adhere to and enforce a Code of Ethics on its staff who are providing Medicaid reimbursable services. The Code of Ethics must be similar to or patterned after one (1) of the following: (7-1-06)T

i. US Psychiatric Rehabilitation Association Code of Ethics found at <http://www.uspra.org/i4a/pages/index.cfm?pageid=3601>; (7-1-06)T

ii. National Association of Social Workers Code of Ethics found at <http://www.naswdc.org/pubs/code/default.asp>; (7-1-06)T

- iii. American Psychological Association Code of Ethics found at <http://www.apa.org/ethics/code.html>; (7-1-06)T
- iv. American Counseling Association Code of Ethics found at <http://www.counseling.org/Resources/CodeOfEthics/TP/Home/CT2.aspx>. (7-1-06)T
- v. Marriage and Family Therapists Code of Ethics found at www.aamft.org/resources/lrmp/ethics/ethicscode2001.asp. (7-1-06)T
- b. The Provider must develop a schedule for providing ethics training to its staff. (7-1-06)T
- c. The ethics training schedule must provide that new employees receive the training during their first year of employment, and that all staff receive ethics training no less than four (4) hours every four (4) years thereafter. (7-1-06)T
- d. Evidence of the Agency's Code of Ethics, the discipline(s) upon which it is modeled, and each staff member's training on the Code must be submitted to the Department upon request. (7-1-06)T
- 10. Building Standards For Mental Health Clinics.** (7-1-06)T
- a. Accessibility. Mental health clinic service providers must be responsive to the needs of the service area and persons receiving services and accessible to persons with disabilities as defined in Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act, and the uniform federal accessibility standard. (7-1-06)T
- b. Environment. Clinics must be designed and equipped to meet the needs of each participant including, but not limited to, factors such as sufficient space, equipment, lighting and noise control. (7-1-06)T
- c. Capacity. Clinics must provide qualified staff as listed in Subsection 715.01 of this rule to meet a staff to participant ratio that ensures safe, effective and clinically appropriate interventions. (7-1-06)T
- d. Fire and Safety Standards. (7-1-06)T
- i. Clinic facilities must meet all local and state codes concerning fire and life safety. The owner/operator must have the facility inspected at least annually by the local fire authority. In the absence of a local fire authority, such inspections must be obtained from the Idaho State Fire Marshall's office. A copy of the inspection must be made available upon request and must include documentation of any necessary corrective action taken on violations cited; and (7-1-06)T
- ii. The clinic facility must be structurally sound and must be maintained and equipped to assure the safety of participants, employees and the public; and (7-1-06)T
- iii. In clinic facilities where natural or man-made hazards are present, suitable fences, guards or railings must be provided to protect participants; and (7-1-06)T
- iv. Clinic facilities must be kept free from the accumulation of weeds, trash and rubbish; and (7-1-06)T
- v. Portable heating devices are prohibited except units that have heating elements that are limited to not more than two hundred twelve (212F) degrees Fahrenheit. The use of unvented, fuel-fired heating devices of any kind are prohibited. All portable space heaters must be U.L. approved as well as approved by the local fire or building authority; and (7-1-06)T
- vi. Flammable or combustible materials must not be stored in the clinic facility; and (7-1-06)T
- vii. All hazardous or toxic substances must be properly labeled and stored under lock and key; and (7-1-06)T

- viii. Water temperatures in areas accessed by participants must not exceed one hundred twenty (120) degrees Fahrenheit; and (7-1-06)T
- ix. Portable fire extinguishers must be installed throughout the clinic facility. Numbers, types and location must be directed by the applicable fire authority noted in Subsection 714.10.d. of this rule; and (7-1-06)T
- x. Electrical installations and equipment must comply with all applicable local or state electrical requirements. In addition, equipment designed to be grounded must be maintained in a grounded condition and extension cords and multiple electrical outlet adapters must not be utilized unless U.L. approved and the numbers, location, and use of them are approved in writing by the local fire or building authority. (7-1-06)T
- xi. There must be a telephone available on the premises for use in the event of an emergency. Emergency telephone numbers must be posted near the telephone or where they can be easily accessed; and (7-1-06)T
- xii. Furnishings, decorations or other objects must not obstruct exits or access to exits. (7-1-06)T
- e. Emergency Plans and Training Requirements. (7-1-06)T
- i. Evacuation plans must be posted throughout the facility. Plans must indicate point of orientation, location of all fire extinguishers, location of all fire exits, and designated meeting area outside of building. (7-1-06)T
- ii. There must be written policies and procedures covering the protection of all persons in the event of fire or other emergencies; and (7-1-06)T
- iii. All employees must participate in fire and safety training upon employment and at least annually thereafter; and (7-1-06)T
- iv. All employees and partial care participants must engage in quarterly fire drills. At least two (2) of these fire drills must include evacuation of the building; and (7-1-06)T
- v. A brief summary of the fire drill and the response of the employees and partial care participants must be written and maintained on file. The summary must indicate the date and time the drill occurred, problems encountered and corrective action taken. (7-1-06)T
- f. Food Preparation and Storage. (7-1-06)T
- i. If foods are prepared in the clinic facility, they must be stored in such a manner as to prevent contamination and be prepared using sanitary methods. (7-1-06)T
- ii. Except during actual preparation time, cold perishable foods must be stored and served under forty-five (45F) degrees Fahrenheit and hot perishable foods must be stored and served over one hundred forty (140F) degrees Fahrenheit. (7-1-06)T
- iii. Refrigerators and freezers used to store participant lunches and other perishable foods used by participants, must be equipped with a reliable, easily-readable thermometer. Refrigerators must be maintained at forty-five (45F) degrees Fahrenheit or below. Freezers must be maintained at zero (0F) to ten (10F) degrees Fahrenheit or below. (7-1-06)T
- iv. When meals are prepared or provided for by the clinic, meals must be nutritional. (7-1-06)T
- g. Housekeeping and Maintenance Services. (7-1-06)T
- i. The interior and exterior of the clinic facility must be maintained in a clean, safe and orderly manner and must be kept in good repair; and (7-1-06)T

- and* ii. Deodorizers cannot be used to cover odors caused by poor housekeeping or unsanitary conditions; (7-1-06)T
- manner; and* iii. All housekeeping equipment must be in good repair and maintained in a clean, safe and sanitary (7-1-06)T
- iv. The clinic facility must be maintained free from infestations of insects, rodents and other pests; and* (7-1-06)T
- v. The clinic facility must maintain the temperature and humidity within a normal comfort range by heating, air conditioning, or other means.* (7-1-06)T
- vi. Garbage will be disposed of in a sanitary manner. It must not be allowed to accumulate and must be placed in leak-proof bags.* (7-1-06)T
- h. Firearms. No firearms are permitted in the clinic facility.* (7-1-06)T
- i. Plumbing. Restroom facilities must be maintained in good working order and available and accessible to participants while at the clinic in accordance with the Americans with Disabilities Act. This includes the presence of running water for operation of the toilet and washing hands.* (7-1-06)T
- j. Lighting. Lighting levels must be maintained throughout the clinic facility which are appropriate to the service being provided.* (7-1-06)T
- k. Drinking Water. Where the source is other than a public water system or commercially bottled, water quality must be tested and approved annually by the district health department.* (7-1-06)T

715. MENTAL HEALTH CLINIC SERVICES - AGENCY STAFF QUALIFICATIONS.

01. Staff Qualifications. *The mental health clinic must assure that each agency staff person delivering clinical services to eligible medical assistance participants has, at a minimum, one (1) or more of the following qualifications:* (7-1-06)T

- a. Licensed Psychiatrist;** (7-1-06)T
- b. Licensed Physician or Licensed Practitioner of the healing arts;** (7-1-06)T
- c. Licensed Psychologist;** (7-1-06)T
- d. Psychologist Extender, registered with the Bureau of Occupational Licenses;** (7-1-06)T
- e. Licensed Masters Social Worker;** (7-1-06)T
- f. Licensed Clinical Social Worker;** (7-1-06)T
- g. Licensed Social Worker;** (7-1-06)T
- h. Licensed Clinical Professional Counselor;** (7-1-06)T
- i. Licensed Professional Counselor;** (7-1-06)T
- j. Licensed Marriage and Family Therapist;** (7-1-06)T
- k. Certified Psychiatric Nurse, R.N., as described in Subsection 707.03 of these rules;** (7-1-06)T
- l. Licensed Professional Nurse, R.N.; or** (7-1-06)T

m. Registered Occupational Therapist, O.T.R. (7-1-06)T

02. Support Staff. For the purposes of this rule, support staff is any person who does not meet the qualifications of professionals as listed in Subsection 715.01 of this rule. The agency may elect to employ support staff to provide support services to participants. Such support services may include providing transportation, cooking and serving meals, cleaning and maintaining the physical plant, or providing general, non-professional supervision. Support staff must not deliver or assist in the delivery of services that are reimbursable by Medicaid. (7-1-06)T

03. Qualified Therapist. The social history and individualized treatment plan development is reimbursable if conducted by a primary therapist who, at a minimum, has one (1) or more of the following qualifications: (7-1-06)T

a. Licensed Psychologist; (7-1-06)T

b. Psychologist Extender, registered with the Bureau of Occupational Licenses; (7-1-06)T

c. Licensed Masters Social Worker, or Licensed Clinical Social Worker, or Licensed Social Worker; (7-1-06)T

d. Certified Psychiatric Nurse, R.N.; (7-1-06)T

e. Licensed Clinical Professional Counselor or Licensed Professional Counselor; (7-1-06)T

f. Licensed Physician or Licensed Psychiatrist; (7-1-06)T

g. Licensed Marriage and Family Therapist; or (7-1-06)T

h. Licensed Professional Nurse (RN). (7-1-06)T

04. Non-Qualified Staff. Any delivery of evaluation, diagnostic service, or treatment designed by any person other than an agency staff person designated as qualified under Sections 710 or 715 of these rules, is not eligible for reimbursement under the Medical Assistance Program. (7-1-06)T

05. Staff Qualifications for Psychotherapy Services. Licensed, qualified professionals providing psychotherapy services as set forth in Subsections 710.05.a. through 710.05.c. of these rules must have, at a minimum, one (1) or more of the following degrees: (7-1-06)T

a. Licensed Psychiatrist; (7-1-06)T

b. Licensed Physician; (7-1-06)T

c. Licensed Psychologist; (7-1-06)T

d. Licensed Clinical Social Worker; (7-1-06)T

e. Licensed Clinical Professional Counselor; (7-1-06)T

f. Licensed Marriage and Family Therapist; (7-1-06)T

g. Certified Psychiatric Nurse (RN), as described in Subsection 707.03 of these rules; (7-1-06)T

h. Licensed Professional Counselor whose provision of psychotherapy is supervised by persons qualified under Subsections 715.15.a. through 715.15.g. of this rule; (7-1-06)T

i. Licensed Masters Social Worker whose provision of psychotherapy is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; or (7-1-06)T

i. A Psychologist Extender, registered with the Bureau of Occupational Licenses. (7-1-06)T

716. MENTAL HEALTH CLINIC SERVICES - RECORD REQUIREMENTS FOR PROVIDERS.

01. Social Histories. *Social histories must be contained in all participant medical records. (7-1-06)T*

02. Informed Consent. *The agency must ensure that participants who receive services through the agency have obtained informed consent from the participant or his legal guardian indicating agreement with all of the elements on the individualized treatment plan including choice of the provider agency, designated services, times, dates, frequencies, objectives, goals, and exit criteria. For minors, informed consent must be obtained from the minor's parent or legal guardian. (7-1-06)T*

03. Documentation. *All intake histories, psychiatric evaluations, psychological testing, or specialty evaluations must be in written form, dated, and fully signed to certify when completed and by whom, and retained in the participant's file for documentation purposes. (7-1-06)T*

04. Data. *All data gathered must be directed towards formulation of a written diagnosis, problem list, and individualized treatment plan which specifies the type, frequency, and anticipated duration of treatment. (7-1-06)T*

05. Mental Health Clinic Record-Keeping Requirements. (7-1-06)T

a. Maintenance. *Each mental health clinic will be required to maintain records on all services provided to medical assistance participants. (7-1-06)T*

b. Record Contents. *The records must contain the current individualized treatment plan ordered by a physician and must meet the requirements as set forth in Section 709 of this rule. (7-1-06)T*

c. Requirements. *The records must: (7-1-06)T*

i. Specify the exact type of treatment provided; and (7-1-06)T

ii. Who the treatment was provided by; and (7-1-06)T

iii. Specify the duration of the treatment and the time of day delivered; and (7-1-06)T

iv. Contain detailed records which outline exactly what occurred during the therapy session or participant contact documented by the person who delivered the service; and (7-1-06)T

v. Contain the legible, dated signature, with degree credentials listed, of the staff member performing the service. (7-1-06)T

715Z. MENTAL HEALTH CLINIC SERVICES - PROVIDER REIMBURSEMENT.

01. Services. *Payment for clinic services will be made directly to the clinic and will be in accordance with rates established by the Department for the specific services. (7-1-06)T*

02. Payment in Full. *Each provider of clinic services must accept the Department's payment for such services as payment in full and must not bill the medical assistance participant for any portion of any charges incurred for the cost of his care. (7-1-06)T*

03. Third Party. *All available third party payment resources, such as Medicare and private insurance, must be exhausted before the Department is billed for services provided to an eligible participant. Proof of billing other third party payers will be required by the Department. (7-1-06)T*

04. Injections. *Payment for the administration of injections must be in accordance with rates established by the Department. (7-1-06)T*

718. MENTAL HEALTH CLINIC SERVICES - QUALITY OF SERVICES.

The Department must monitor the quality and outcomes of mental health clinic services provided to participants, in coordination with the Divisions of Medicaid, Management Services, Family and Community Services (FACS), and Behavioral Health. (7-1-06)T

~~716.~~—719. (RESERVED).

Subsection 735.02.a.

735. PHYSICAL THERAPY SERVICES - PROVIDER REIMBURSEMENT.

02. Payment Procedures. Payment procedures are as follows: (7-1-06)T

a. Physical therapy rendered by home health agencies must have, at least every sixty (60) days, physician recertification in writing that those services were medically necessary. This information ~~The physician recertification~~ must be on the copy of the physician's order ~~submitted with the claim and must be kept on file with the provider.~~ Physical therapy provided by home health agencies will be paid at a rate per visit as described in Section 725 of these rules and subject to the home health visit limitations contained in Section 722 of these rules.

~~(7-1-06)T~~(7-1-06)T

Section 738 - Entire Section

738. SPEECH AND OCCUPATIONAL THERAPY SERVICES.

~~Speech and Therapy services are covered under these rules when provided by outpatient hospitals and school-based services providers.~~ Occupational Therapy services are covered under these rules when provided by ~~the following providers:~~ outpatient hospitals, home health agencies, and ~~schools providing~~ school-based services ~~providers.~~

~~(7-1-06)T~~(7-1-06)T

Subsection 752.01

752. DURABLE MEDICAL EQUIPMENT AND SUPPLIES - COVERAGE AND LIMITATIONS.

The Department will purchase or rent, when medically necessary, reasonable, and cost effective, durable medical equipment (DME) and medical supplies for participants residing in community settings including those provided by qualified home health providers under home health agency plans of care that meet the requirements found in Sections 720 through 724 of these rules. (7-1-06)T

01. Medical Necessity Criteria. Department standards for medical necessity are those national standards set by Centers for Medicare and Medicaid Services (CMS) in the ~~CMS~~ Medicare DME ~~coverage~~ MAC Jurisdiction D Supplier ~~Manual.~~ Exceptions to Medicare coverage are contained in Section 752 of this chapter of rules. DME/medical supplies will be purchased or rented only if ordered in writing (signed and dated) by a physician as listed in the ~~CMS~~ Medicare DME ~~coverage~~ MAC Jurisdiction D Supplier ~~Manual.~~ Date of delivery is considered the date of service. The following information to support the medical necessity of the item(s) must be included in the physician's order and accompany all requests for prior authorization or be kept on file with the DME provider for items that do not require prior authorization: ~~(7-1-06)T~~(7-1-06)T

Subsection 802.05.d. and Table 802.05

802. DENTAL SERVICES - COVERAGE AND LIMITATIONS.

05. Restorations. (7-1-06)T

- d. Crowns. (7-1-06)T
- i. When submitting for prior authorization, either an x-ray showing the root canal or an x-ray with a justification detailing the reason for the crown is required. (7-1-06)T
- ii. Requests for re-doing crowns must be submitted for prior approval and include x-ray and justification. (7-1-06)T

TABLE 802.05 - RESTORATIONS	
Dental Code	Description
de. Amalgam Restorations.	
D2140	Amalgam - one (1) surface, primary or permanent. Tooth designation required.
D2150	Amalgam - two (2) surfaces, primary or permanent. Tooth designation required.
D2160	Amalgam - three (3) surfaces, primary or permanent. Tooth designation required.
D2161	Amalgam - four (4) or more surfaces, primary or permanent. Tooth designation required.
ef. Resin Restorations. Resin refers to a broad category of materials including but not limited to composites. May include bonded composite, light-cured composite, etc. Light-curing, acid-etching, and adhesives (including resin bonding agents) are part of the restoration. Report glass ionomers when used as restorations. If pins are used, report them separately.	
D2330	Resin - one (1) surface, anterior. Tooth designation required.
D2331	Resin - two (2) surfaces, anterior. Tooth designation required.
D2332	Resin - three (3) surfaces, anterior. Tooth designation required.
D2335	Resin - four (4) or more surfaces or involving incisal angle, anterior. Tooth designation required.
D2390	Resin based composite crown, anterior, primary or permanent. Tooth designation required.
D2391	Resin based composite - one (1) surface, posterior, primary or permanent.
D2392	Resin based composite - two (2) surfaces, posterior, primary or permanent.
D2393	Resin based composite - three (3) surfaces, posterior, primary or permanent.
D2394	Resin based composite - four (4) surfaces, posterior, primary or permanent.
fg. Crowns.	
D2710	Crown resin indirect. Tooth designation required. Prior authorization required.
D2721	Crown resin with predominantly base metal. Tooth designation required. Prior authorization required.
D2750	Crown, porcelain fused to high noble metal. Tooth designation required. Prior authorization required.
D2751	Crown porcelain fused too predominantly base metal. Tooth designation required. Prior authorization required.
D2752	Crown, porcelain fused to noble metal. Tooth designation required. Prior authorization required.
D2790	Crown, full cast, high noble metal. Tooth designation required. Prior authorization required.
D2791	Crown full cast predominantly base metal. Tooth designation required. Prior authorization required.
D2792	Crown, full cast noble metal. Tooth designation required. Prior authorization required.

TABLE 802.05 - RESTORATIONS	
Dental Code	Description
gh. Other Restorative Services.	
D2920	Re-cement crown. Tooth designation required.
D2930	Prefabricated stainless steel crown - primary tooth. Tooth designation required.
D2931	Prefabricated stainless steel crown - permanent tooth. Tooth designation required.
D2932	Prefabricated resin crown. Tooth designation required.
D2940	Sedative filling. Tooth designation required. Surface is not required.
D2950	Core buildup, including any pins. Tooth designation required. Limited to two (2) pins per tooth.
D2951	Pin retention - per tooth, in addition to restoration. Tooth designation required. Limited to two (2) pins per tooth.
D2954	Prefabricated post and core in addition to crown. Tooth designation required.
D2955	Post removal. Tooth designation required.
D2980	Crown repair. Tooth designation required.
D2999	Unspecified restorative procedure, by report. Narrative and tooth designation required when prior authorizing. Requires prior authorization.

(7-1-06)T

Section 805

805. DENTAL SERVICES - PROVIDER REIMBURSEMENT.

Medicaid reimburses dentists and denturists for procedures on a fee-for-service basis. Usual and customary charges are paid up to the Medicaid maximum allowance. Dentists may make arrangements for private payment with families for services not covered by Medicaid. If the provider accepts any Medicaid payment for a covered service, the Medicaid payment must be accepted as payment in full for the service, and the participant cannot be billed for the difference between the billed amount and the Medicaid allowed amount. ~~(7-1-06)T~~(7-1-06)T

Subsection 835.01

835. FEDERALLY QUALIFIED HEALTH CENTER (FQHC) SERVICES - REIMBURSEMENT METHODOLOGY.

01. Payment. Payment for Federally Qualified Health Center and Rural Health Clinic services must be made in accordance with Section 702 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, P.L. 106-554, 42 USC Section 1396a(~~abb~~), Subsections (1) through (4). ~~(7-1-06)T~~(7-1-06)T

Section 850 - Entire Section

850. SCHOOL-BASED SERVICES - DEFINITIONS.

01. Activities of Daily Living (ADL). *The performance of basic self-care activities in meeting an individual's needs for sustaining him in a daily living environment, including, but not limited to, bathing, washing, dressing, toileting, grooming, eating, communication, continence, mobility, and associated tasks.* (7-1-06)T

~~072.~~ **Educational Services.** Services that are provided in buildings, rooms, or areas designated or used as a school or as educational facilities, which are provided during the specific hours and time periods in which the educational instruction takes place in the normal school day and period of time for these students, and which are included in the individual educational plan for the participant or required by federal and state educational statutes or regulations. (7-1-06)T

~~023.~~ **School-Based Services.** School-based services are health-related and rehabilitative services provided by Idaho public school districts, charter schools, and the Idaho Infant Toddler program under the Individuals with Disabilities Education Act (IDEA). (~~7-1-06~~)T(7-1-06)T

Section 851 - Entire Section

851. SCHOOL-BASED SERVICES - PARTICIPANT ELIGIBILITY.

To be eligible for medical assistance reimbursement for covered services, school districts, charter schools, and the Idaho Infant Toddler Program must ensure the student is: (~~7-1-06~~)T(7-1-06)T

01. Medicaid Eligible. Eligible for Medicaid and the service for which the school district, charter school, or Idaho Infant Toddler Program is seeking reimbursement; (~~7-1-06~~)T(7-1-06)T

02. School Enrollment. Enrolled in an Idaho school district, charter school, or the Idaho Infant Toddler Program; (~~7-1-06~~)T(7-1-06)T

03. Age. Twenty-one (21) years of age or younger and the semester in which his twenty-first birthday falls is not finished; (7-1-06)T

04. Educational Disability. (7-1-06)T

a. Identified as having an educational disability under the Department of Education standards in IDAPA 08.02.03, "Rules Governing Thoroughness"; or (7-1-06)T

b. A child from birth to three (3) years of age, who has been identified as needing early intervention services due to a developmental delay or disability or who meets the eligibility criteria of the Idaho Infant Toddler Program; (7-1-06)T

05. Inpatients in Hospitals or Nursing Homes. Payment for school-related or Infant Toddler-based services will not be provided to students who are inpatients in nursing homes or hospitals. Health-related services for students residing in an ICF/MR are eligible for reimbursement. (7-1-06)T

06. Service-Specific Eligibility. ~~In addition to meeting the Medicaid eligibility requirements in Section 561 of these rules,~~ Psychosocial Rehabilitation (PSR), Developmental Therapy, and Intensive Behavioral Intervention (IBI) have additional eligibility requirements. (~~7-1-06~~)T(7-1-06)T

a. Psychosocial Rehabilitation (PSR). To be eligible for PSR, the student must meet the PSR eligibility criteria for children in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 112, or the Department of Education's criteria for emotional disturbance found in the Idaho Special Education Manual available online at: <http://www.sde.state.id.us/SpecialEd/manual/sped.asp>. Districts are to coordinate the delivery of services if the student is receiving PSR services authorized by the Department. (7-1-06)T

b. Developmental Therapy. To be eligible for developmental therapy, the student must meet the criteria for developmental disabilities as identified in Section 66-402(5), Idaho Code, and have documentation to support eligibility using the ~~Developmental Disabilities Determination Checklist available online at: <http://www.sde.state.id.us/SpecialEd/medicaid>~~ standards under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 501. (~~7-1-06~~)T(7-1-06)T

c. Intensive Behavioral Intervention (IBI). To be eligible for IBI services the student must: (7-1-06)T

- i. Meet the criteria for developmental disabilities as identified in Section 66-402(5), Idaho Code, and have documentation to support eligibility using the ~~Developmental Disabilities Determinations Checklist standards under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 501;~~ and ~~(7-1-06)F(7-1-06)T~~
- ii. Display self-injurious, aggressive or severely maladaptive behavior evidenced by a score of minus twenty-two (-22) or below on the Scales of Independent Behavior-Revised (SIB-R), and demonstrate functional abilities that are fifty percent (50%) or less of his chronological age in at least one (1) of the following: verbal or nonverbal communication, social interaction, or leisure and play skills. (7-1-06)T
- iii. Be a child birth through the last day of the month of his twenty-first birthday who has self-injurious, aggressive, or severely maladaptive behavior and severe deficits in the areas of verbal and nonverbal communication, social interaction, or leisure and play skills. (7-1-06)T

Section 852, Subsections 852.03, 852.03.c., 852.03.n., and 852.03.n.v.

852. SCHOOL-BASED SERVICES - COVERAGE AND LIMITATIONS.

The Department will pay school districts, ~~including~~ charter schools, and the Idaho Infant Toddler Program, for covered rehabilitative and health-related services. Services include medical or remedial services provided by school districts or other cooperative service agencies, as defined in Section 33-317, Idaho Code. ~~(7-1-06)F(7-1-06)T~~

03. Reimbursable Services. School districts, charter schools, and the Idaho Infant Toddler programs ~~may can~~ bill for the following health-related services provided to eligible students when the services are provided under the recommendation of a physician or other practitioner of the healing arts licensed and approved by the state of Idaho to make such recommendations or referrals for the Medicaid services for which the school district, charter school, or Idaho Infant Toddler Program is seeking reimbursement. ~~(7-1-06)F(7-1-06)T~~

c. Medical Equipment and Supplies. Medical equipment and supplies that are covered by Medicaid must be ordered by a physician and prior authorized, based on medical necessity, in order to be billed. Authorized items must be used at school or for the Idaho Infant Toddler Program at the location where the service is provided. Equipment that is too large or unsanitary to transport from home to school may be covered if prior authorized. The equipment and supplies must be used for the student's exclusive use and transfer with the student if the student changes schools. Equipment no longer usable by the student, may be donated to the school or Idaho Infant Toddler Program by the student. ~~(7-1-06)F(7-1-06)T~~

n. Transportation Services. School districts, charter schools, and the Idaho Infant Toddler programs can receive reimbursement for mileage for transporting a student to and from home, school, or location of services when: ~~(7-1-06)F(7-1-06)T~~

v. The mileage, as well as the services performed by the attendant, are documented. See Section ~~576~~ 854 of these rules for documentation requirements. ~~(7-1-06)F(7-1-06)T~~

Subsection 853.02

853. SCHOOL-BASED SERVICES - PROCEDURAL REQUIREMENTS.

02. Referred by a Physician or Other Practitioner of the Healing Arts. Recommended or referred by a physician or other practitioner of the healing arts such as a nurse practitioner, clinical nurse specialist, or physician's assistant, who is licensed and approved by the state of Idaho to make such recommendations or referrals, for all Medicaid services for which the school district, charter school, or the Idaho Infant Toddler Program is

receiving reimbursement.

~~(7-1-06)F~~(7-1-06)T

Subsections 854.05, 854.06, and 854.07.i.vii.

854. SCHOOL-BASED SERVICES - PROVIDER QUALIFICATIONS AND DUTIES.

In addition to the evaluations and maintenance of the plans, the following documentation must be maintained by the provider and retained for a period of six (6) years: (7-1-06)T

05. Parental Notification. School districts, charter schools, and the Idaho Infant Toddler programs must document that parents were notified of the health-related services and equipment for which they will bill Medicaid. Notification must comply with the requirements in Subsection 854.06 of this rule. ~~(7-1-06)F~~(7-1-06)T

06. Requirements for Cooperation with and Notification of Parents and Agencies. Each school district, charter school, or Idaho Infant Toddler Program billing for Medicaid services must act in cooperation with students' parents and with community and state agencies and professionals who provide like Medicaid services to the student. ~~(7-1-06)F~~(7-1-06)T

a. Notification of Parents. For all students who are receiving Medicaid reimbursed services, school districts, charter schools, and the Idaho Infant Toddler programs must ensure that parents are notified of the Medicaid services and equipment for which they will bill Medicaid. Notification must describe the service(s), service provider(s), and state the type, location, frequency, and duration of the service(s). The school district must provide the student's parent or guardian with a current copy of the child's plan and any pertinent addenda; and ~~(7-1-06)F~~(7-1-06)T

b. Notification to Primary Care Physician. School districts, charter schools, and the Idaho Infant Toddler programs must request the name of the student's primary care physician from the parent or guardian so the school program can share health-related information with the physician with written consent from the parent or guardian. The following information must be sent to the student's primary care physician: ~~(7-1-06)F~~(7-1-06)T

- i. Results of evaluations within sixty (60) days of completion; (7-1-06)T
- ii. A copy of the cover sheet and services page within thirty (30) days of the plan meeting; and (7-1-06)T
- iii. A copy of progress notes, if requested by the physician, within sixty (60) days of completion. (7-1-06)T

c. Other Community and State Agencies. Upon receiving a request for a copy of the evaluations or the current plan, the school district, charter school, or Idaho Infant Toddler Program must furnish the requesting agency or professional with a copy of the plan or appropriate evaluation after obtaining consent for release of information from the student's parent or guardian. ~~(7-1-06)F~~(7-1-06)T

d. Parental Consent to Release Information. School districts, charter schools, and the Idaho Infant Toddler programs: ~~(7-1-06)F~~(7-1-06)T

- i. Must obtain consent from the parent to release information regarding education-related services, in accordance with Federal Education Rights and Privacy Act (FERPA) regulations; (7-1-06)T
- ii. Must document the parent's denial of consent if the parent refuses to consent to the release of information regarding education-related services, including release of the name of the student's primary care physician. (7-1-06)T

07. Provider Staff Qualifications. Medicaid will only reimburse for services provided by qualified staff. See Subsection 854.08 of this rule for the limitations and requirements for paraprofessional service providers. The following are the minimum qualifications for professional providers of covered services: (7-1-06)T

- i. Psychotherapy. Provision of psychotherapy services must have, at a minimum, one (1) or more of the following credentials: (7-1-06)T
- vii. Certified psychiatric nurse (R.N.), as described in Subsection ~~710.03~~ 707.03 of these rules; ~~(7-1-06)T~~(7-1-06)T

Section 855

855. SCHOOL-BASED SERVICES - PROVIDER REIMBURSEMENT.

Payment for health-related services provided by school districts, charter schools, and the Idaho Infant Toddler program~~s~~ must be in accordance with rates established by the Department. ~~(7-1-06)T~~(7-1-06)T

01. Payment in Full. Providers of services must accept as payment in full the school district, charter school, or Idaho Infant Toddler Program payment for such services and must not bill Medicaid or Medicaid participants for any portion of any charges. ~~(7-1-06)T~~(7-1-06)T

02. Third Party. For requirements regarding third party billing, see Section 215 of these rules. (7-1-06)T

03. Contracted Providers. When an employee of a school district, charter school, or the Idaho Infant Toddler program does not deliver the services identified on the plan, the school district, charter school, or Idaho Infant Toddler Program must contracts with a service provider to deliver the services identified on the plan, the school or the Infant Toddler program must and bill Medicaid for the contracted services. The contracted service provider must not bill Medicaid or the Medicaid participant. ~~(7-1-06)T~~(7-1-06)T

04. Recoupment of Federal Share. Failure to provide services for which reimbursement has been received or to comply with these rules will be cause for recoupment of the Federal share of payments for services, sanctions, or both. (7-1-06)T

05. Matching Funds. Federal funds cannot be used as the State's portion of match for Medicaid service reimbursement. School districts and charter schools must, for their own internal record keeping, calculate and document the non-federal funds (maintenance of effort assurance) that have been designated as their certified match. This documentation needs to include the source of all funds that have been submitted to the State and the original source of those dollars. The appropriate matching funds will be handled in the following manner: ~~(7-1-06)T~~(7-1-06)T

a. Schools will estimate the amount needed to meet match requirements based on their anticipated monthly billings. (7-1-06)T

b. School districts and charter schools will send the Department the matching funds, either by check or automated clearing house (ACH) electronic funds transfers. ~~(7-1-06)T~~(7-1-06)T

c. The Department will hold matching funds in an interest bearing trust account. The average daily balance during a month must exceed one hundred dollars (\$100) in order to receive interest for that month. (7-1-06)T

d. The payments to the districts will include both the federal and non-federal share (matching funds). (7-1-06)T

e. Matching fund payments must be received and posted in advance of the weekly Medicaid payment cycle. (7-1-06)T

f. If sufficient matching funds are not received in advance, all Medicaid payments to the school district will be suspended and the school district will be notified of the shortage. Once sufficient matching funds are received, suspended payments will be processed and reimbursement will be made during the next payment cycle.

(7-1-06)T

g. The Department will provide the school districts a monthly statement which will show the matching amounts received, interest earned, total claims paid, the matching funds used for the paid claims, and the balance of their funds in the trust account. (7-1-06)T

h. The school districts will estimate the amount of their next billing and the amount of matching funds needed to pay the Department. (7-1-06)T

i. The estimated match requirement may be adjusted up or down based on the remaining balance held in the trust account. (7-1-06)T

Sections 882 through 888

882. EARLY PERIODIC SCREENING, DIAGNOSIS AND TREATMENT SERVICES (EPSDT) SERVICES - COVERAGE AND LIMITATIONS.

~~01. **Amount, Duration and Scope of Services.** The Department will set amount, duration, and scope of covered services.~~ (7-1-06)T

~~02. **Services Must be Medically Necessary.** Needs for services discovered during an EPSDT screening that are outside the coverage provided either under this chapter of rules or under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," must be shown to be medically necessary and the least costly means of meeting the participant's medical needs to correct or improve the physical or mental illness discovered by the screening and ordered by the physician, nurse practitioner or physician's assistant.~~ (7-1-06)T

~~03. **Services Not Covered.** The Department will not cover services for cosmetic, convenience or comfort reasons.~~ (7-1-06)T

~~04L. **Additional Services.** Any service required as a result of an EPSDT screen and which is currently covered under the scope of the Idaho Medicaid program will not be subject to the existing amount, scope, and duration, but will be subject to the authorization requirements of those rules. *The additional service must be documented by the attending physician as to why it is medically necessary and that the service requested is the least costly means of meeting the participant's medical needs. Preauthorization from the Department will be required prior to payment.*~~ (7-1-06)T(7-1-06)T

~~02. **Services Must Be Medically Necessary.** The need for additional services must be documented by the attending physician as medically necessary.~~ (7-1-06)T

~~053. **Services Which are Least Costly Prior Authorization.** Those services that have not been shown or documented by the attending physician to be the least costly means of meeting the participant's medical needs are not covered and are the responsibility of the participant. Any service requested, that is covered under Title XIX or Title XXI of the Social Security Act, that is not identified in these rules specifically as a Medicaid-covered service will require prior authorization prior to payment for that service.~~ (7-1-06)T(7-1-06)T

~~06. **Prior Authorization for Medical Necessity.** Any service requested that is covered under Title XIX or Title XXI of the Social Security Act that is not identified in these rules specifically as a Medicaid-covered service will require preauthorization for medical necessity prior to payment for that service.~~ (7-1-06)T

~~07. **Hearing Screens.** The Department will cover hearing screening services according to the recommended guidelines of the American Association of Pediatrics (AAP) as part of a wellness visit. The screen administered will be an age-appropriate hearing screen.~~ (7-1-06)T

~~04. **Services Not Covered.** The Department will not cover services for cosmetic, convenience, or comfort reasons.~~ (7-1-06)T

~~085. Hearing Services Paid Aids Under EPSDT. EPSDT hearing services will pay for audiology services and supplies ordered by a licensed physician and supplied by a physician or licensed audiologist, in accordance with Sections 741 through 745 of these rules, with the following exceptions. (7-1-06)T(7-1-06)T~~

~~a. When binaural aids are requested they will be authorized if documented to the Department's satisfaction, that the child's ability to learn would be severely restricted. (7-1-06)T~~

~~b. When replacement hearing aids are requested, they may be authorized if the requirements in Subsections 741.01.a. through 741.01.d. are met. (7-1-06)T~~

~~c. The Department will purchase additional ear molds after the initial six (6) months to one (1) year period if medically necessary. Requests in excess of every six (6) months will require prior authorization and documentation of medical need from either the attending physician or audiologist. (7-1-06)T~~

~~06. Eyeglasses Under EPSDT. (7-1-06)T~~

~~a. In the case of a major visual change, the Department can authorize purchase of a second pair of eyeglasses and can authorize a second eye examination to determine that visual change. (7-1-06)T~~

~~b. The Department may pay for replacement of lost glasses or replacement of broken frames or lenses. New frames will not be purchased if the broken frame can be repaired for less than the cost of new frames if the provider indicates one (1) of these reasons on his claim. If repair costs are greater than the cost of new frames, new frames may be authorized. (7-1-06)T~~

~~883. EARLY PERIODIC SCREENING, DIAGNOSIS AND TREATMENT SERVICES (EPSDT) SERVICES - PROCEDURAL REQUIREMENTS.~~

~~Additional services available to a participant under EPSDT must be prior authorized by the Department. (7-1-06)T~~

~~883. -- 887. (RESERVED).~~

~~888. DRUGS UNDER EPSDT.~~

~~Drugs not covered by the Idaho Medicaid Program may be covered under the EPSDT program under the following conditions: (7-1-06)T~~

~~01. Medically Necessary. Must be discovered as being medically necessary by the screening services; and (7-1-06)T~~

~~02. Attending Physician. Must be ordered by the attending physician; and (7-1-06)T~~

~~03. Authorized by Medicaid Program. Must be authorized by the Medicaid Program prior to the purchase of the drug. (7-1-06)T~~

~~04. Experimental Drug. May not be an experimental drug in the treatment of the child's condition. (7-1-06)T~~

~~884. -- 889. (RESERVED).~~

Subsections 900.03.n., 900.04, 900.15, and 900.18.c.

900. LIENS AND ESTATE RECOVERY.

In accordance with Sections 56-218 and 56-218A, Idaho Code, this Section of rule sets forth the provisions for recovery of medical assistance, the filing of liens against the property of deceased persons, and the filing of liens against the property of permanently institutionalized participants. (7-1-06)T

03. Definitions. The following terms are applicable to Section 900 of this chapter of rules: (7-1-06)T

a. Authorized representative. The person appointed by the court as the personal representative in a probate proceeding or, if none, the person identified by the participant to receive notice and make decisions on estate matters. (7-1-06)T

b. Discharge from a medical institution. A medical decision made by a competent medical professional that the Medicaid participant no longer needs nursing home care because the participant's condition has improved, or the discharge is not medically contraindicated. (7-1-06)T

b.c. Equity interest in a home. Any equity interest in real property recognized under Idaho law. (7-1-06)T

ed. Estate. All real and personal property and other assets including those in which the participant had any legal or beneficial title or interest at the time of death, to the extent of such interest, including such assets conveyed to a survivor, heir, or assignee of the deceased participant through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement. (7-1-06)T

de. Home. The dwelling in which the participant has an ownership interest, and which the participant occupied as his primary dwelling prior to, or subsequent to, his admission to a medical institution. (7-1-06)T

ef. Institutionalized participant. An inpatient in a nursing facility (NF), intermediate care facility for the mentally retarded (ICF/MR), or other medical institution, who is a Medicaid participant subject to post-eligibility treatment of income in IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)." (7-1-06)T

fg. Lawfully residing. Residing in a manner not contrary to or forbidden by law, and with the participant's knowledge and consent. (7-1-06)T

gh. Permanently institutionalized. An institutionalized participant of any age who the Department has determined cannot reasonably be expected to be discharged from the institution and return home. Discharge refers to a medical decision made by a competent medical professional that the participant is physically able to leave the institution and return to live at home. (7-1-06)T

hi. Personal property. Any property not real property, including cash, jewelry, household goods, tools, life insurance policies, boats and wheeled vehicles. (7-1-06)T

ij. Real property. Any land, including buildings or immovable objects attached permanently to the land. (7-1-06)T

jk. Residing in the home on a continuous basis. Occupying the home as the primary dwelling and continuing to occupy such dwelling as the primary residence. (7-1-06)T

kl. Termination of a lien. The release or dissolution of a lien from property. (7-1-06)T

lm. Undue hardship. Conditions that justify waiver of all or a part of the Department's claim against an estate, described in Subsections 900.25 through 900.29 of this rule. (7-1-06)T

mn. Undue hardship waiver. A decision made by the Department to relinquish, limit, or defer its claim to any or all estate assets of a deceased participant based on good cause. (7-1-06)T

04. Notification to Department. All notification regarding liens and estate claims must be directed to the Department of Health and Welfare, Estate Recovery Unit, 3276 Elder, Suite B, P.O. Box 83720, Boise, Idaho, 83720-0036. (~~7-1-06~~)(7-1-06)T

15. Recovery From Estate of Spouse. Recovery from the estate of the spouse of a Medicaid participant may be made as permitted in Sections 56-218 and 56-218A, Idaho Code. (~~7-1-06~~)(7-1-06)T

18. Assets in Estate Subject to Claims. The authorized representative will be notified of the Department's claim against the assets of a deceased participant. Assets in the estate from which the claim can be satisfied must include all real or personal property that the deceased participant owned or in which he had an ownership interest, including the following: (7-1-06)T

c. Any trust instrument which is designed to hold or to distribute funds or property, real or personal, in which the deceased participant ~~has~~ had a beneficial interest is an asset of the estate. ~~(7-1-06)T~~(7-1-06)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0701

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is February 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-203(g), and 56-257, Idaho Code; also House Bill 663aa (2006), and the federal Deficit Reduction Act of 2005; P.L. 109-171.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Date:	Thursday, January 11, 2007	Tuesday, January 16, 2007	Tuesday, January 23, 2007
Time:	7:00 p.m.	5:30 p.m.	7:00 p.m.
Place:	DHW - Region I Office 1120 Ironwood Drive Suite 102 Coeur d'Alene, ID	DHW - Region IV Office 1720 Westgate Dr. Suite D, Room 119 Boise, ID	Idaho Falls Public Library 457 Broadway Library Conference Room Idaho Falls, ID

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department is establishing cost-sharing measures for Medicaid participants in order to comply with House Bill 663 passed by the 2006 Legislature. The purpose of the statute and of this rule change is two-fold:

1. To increase awareness and responsibility of Medicaid participants regarding the cost of their health care, and
2. To encourage them to use cost-effective care in the most appropriate setting.

To accomplish this purpose, the new cost-sharing measures can require participants to pay for part of the cost of Medicaid services, in the form of a co-payment, when they have accessed those services inefficiently or inappropriately. A reference to IDAPA 16.03.18, "Medicaid Cost-Sharing," is also being added. Companion rule changes in that chapter describe the actual amounts of each co-payment (see Docket No. 16-0318-0701).

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is needed to comply with deadlines in amendments to governing law or federal programs (see House Bill 663aa, 2006).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The implementation of co-payments by participants is cost-neutral to the Medicaid budget:

1. Co-payments are paid by the participant to the provider, not to the Medicaid program; and
2. Co-payments are permissive (i.e., providers may, but are not required, to charge the co-payment) and there is no reduction in provider payment by Medicaid when a participant pays the co-payment.

Future savings may be realized as participants make better choices and reduce inappropriate use of services.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted

because changes to rule are being made to implement legislation passed during the 2006 legislative session.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Patti Campbell at (208) 287-1158.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, January 24, 2007.

DATED this 14th day of November, 2006.

Sherri Kovach
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0701

151. -- 1959. (RESERVED).

160. RESPONSIBILITY FOR KEEPING APPOINTMENTS.

The participant is solely responsible for making and keeping an appointment with the provider. If a participant makes an appointment and subsequently does not keep it, the participant may be required to pay the provider an amount established by the provider's missed appointment policy that is applicable to all patients of the provider. (2-1-07)T

161. -- 164. (RESERVED).

165. COST-SHARING.

01. Co-Payments. When a participant accesses certain services inappropriately, the provider can require the participant to pay a co-payment as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (2-1-07)T

02. Premiums. A participant can be required to share in the cost of basic plan benefits in the form of a premium as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (10-1-06)T

166. -- 199. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

412. OUTPATIENT HOSPITAL SERVICES - COVERAGE AND LIMITATIONS.

01. Services Provided On-Site. Outpatient hospital services must be provided on-site. (7-1-06)T

- 02. Exceptions and Limitations.** (7-1-06)T
- a.** Payment for emergency room service is limited to six (6) visits per calendar year. (7-1-06)T
- b.** Emergency room services which are followed immediately by admission to inpatient status will be excluded from the six (6) visit limit. (7-1-06)T
- 03. Co-Payments.** (2-1-07)T
- a.** When an emergency room physician conducts a medical screening and determines that an emergency condition does not exist, the hospital can require the participant to pay a co-payment as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (2-1-07)T
- b.** A hospital may refuse to provide services to a participant when a medical screening has determined that an emergency condition does not exist and the participant does not make the required co-payment at the time of service. Under these circumstances, the hospital must provide notification to the participant as specified in Section 1916A(e) of the Social Security Act. (2-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

862. EMERGENCY TRANSPORTATION SERVICES - COVERAGE AND LIMITATIONS.

- 01. Prior Authorization.** Medically necessary ambulance services are reimbursable in emergency situations or when prior authorization has been obtained from the Department. (7-1-06)T
- 02. Local Transport Only.** Only local transportation by ambulance is covered. In exceptional situations where the ambulance transportation originates beyond the locality to which the participant was transported, payment may be made for such services only if the evidence clearly establishes that such institution is the nearest one with appropriate facilities and the service is authorized by the Department. (7-1-06)T
- 03. Air Ambulance Service.** In some areas, transportation by airplane or helicopter may qualify as ambulance services. Air ambulance services are covered only when: (7-1-06)T
- a.** The point of pickup is inaccessible by land vehicle; or (7-1-06)T
- b.** Great distances or other obstacles are involved in getting the participant to the nearest appropriate facility and speedy admission is essential; and (7-1-06)T
- c.** Air ambulance service will be covered where the participant's condition and other circumstances necessitate the use of this type of transportation; however, where land ambulance service will suffice, payment will be based on the amount payable for land ambulance, or the lowest cost. (7-1-06)T
- 04. Co-Payments.** When the Department determines that the participant did not require emergency transportation, the provider can bill the participant for the co-payment amount as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (2-1-07)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

DOCKET NO. 16-0310-0601 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), and 56-250 through 56-257, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The notice for the repeal of IDAPA 16.03.10, "Rules Governing Medicaid Provider Reimbursement in Idaho" was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, page 285. The rewritten chapter that replaced it, IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits" published simultaneously under Docket No. 16-0310-0602.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Pam Mason at (208) 364-1863.

DATED this 6th day of November, 2006.

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DOCKET NO. 16-0310-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, page 285.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0602 (CHAPTER REWRITE)

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2006, October 1, 2006, and January 1, 2007. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code and Title XIX and Title XXI of the Social Security Act, as amended, and the companion federal regulations.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The following is an overview of amendments made to the pending rule, based on input received during the public comment period. The changes to these rules are:

1. Modified the definitions for clarification, added definitions for terms used in the chapter and deleted definitions for terms not used in the chapter;
2. Clarified when individuals may provide service on a provisional basis when a criminal history check is required;
3. Moved the requirements for participation in the costs of Home and Community Based Waiver Services (HCBS) to the new chapter of rules, IDAPA 16.03.18, "Medicaid Cost-Sharing";
4. Added a section regarding the Medicare Saving Program that was inadvertently left out of the rewrite of the chapter;
5. Added sections for accounting principles and provider reimbursement to reflect practices that have long been in effect, that include general fees, interest charges, final payments, retroactive adjustments, recovery methods and related party transactions;
6. Clarified the enhanced plan services for the following: mental health outpatient services, psychosocial rehabilitative services (PSR) and provider responsibilities, school-based services and reimbursement procedures, nursing facility services and reimbursement procedures, Intermediate Care Facility for Persons With Mental Retardation (ICF/MR) services and reimbursement procedures; developmental disabilities agency services; residential habilitation services and service coordination services;
7. Corrected citations, made typographical, transcriptional and other clerical corrections as needed.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Vol. 06-8, pages 286 through 466.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Pam Mason at (208) 364-1863.

DATED this 14th day of November, 2006.

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DOCKET NO. 16-0310-0602 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 286 through 466.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET 16-0310-0602

Section 000

000. LEGAL AUTHORITY.

01. Rulemaking Authority. The Idaho Department of Health and Welfare has the authority to promulgate public assistance rules under Sections 56-202(b) ~~and 56-203(g)~~, Idaho Code. (7-1-06)T

02. General Administrative Authority. Title XIX and Title XXI, ~~Medicaid Program~~, of the Social Security Act, as amended, ~~is and the companion federal regulations, are~~ the basic authority for administration of the federal program ~~under 42 CFR Part 447. Title 56, Chapter 1, Idaho Code, establishes standards for provider payment for in-state providers. General administrative duties for the Department are found under~~ Section 56-202, Idaho Code, ~~provides that the Department is responsible for administering the program. Further it authorizes the Department to take necessary steps for its proper and efficient administration.~~ (7-1-06)T(7-1-06)T

03. Administration of the Medical Assistance Program. (7-1-06)T

a. Section 56-203(g), Idaho Code, empowers the Department to define persons entitled to medical assistance. (7-1-06)T

b. Section 56-203(i), Idaho Code, empowers the Department to identify the amount, duration, scope of care, and services to be purchased as medical assistance on behalf of individuals eligible to receive benefits under the Medical Assistance Program. (7-1-06)T

~~c. Sections 56-250 through 56-257, Idaho Code, establish minimum standards that enable these rules. (7-1-06)T~~

~~014. General Fiscal Administration. (7-1-06)T(7-1-06)T~~

~~a. Fiscal administration of these Idaho rules is authorized by Title XIX and Title XXI Medicaid Program will be in accordance with these rules of the Social Security Act, as well as 42 CFR Part 447 and the Provider Reimbursement Manual (PRM) Part I and Part II found in CMS Publication 15-1 and 15-2, which are Provisions of the PRM, as incorporated by reference in Section 004 of these rules. The provisions will apply unless otherwise authorized provided for in these rules. (7-1-06)T(7-1-06)T~~

~~b. Generally accepted accounting principles, concepts and definitions are followed in determining acceptable accounting treatments except as otherwise provided. Title 56, Chapter 1, Idaho Code, establishes standards for provider payment for certain Medicaid providers. (7-1-06)T(7-1-06)T~~

~~02. Compliance as Condition of Participation. Compliance with the provisions in this chapter, its amendments, and additions is required for participation in the Idaho Title XIX and Title XXI Medicaid Program. (7-1-06)T~~

Subsections 009.02, 009.04.b., 009.04.c.

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

~~02. Availability to Work or Provide Service. Certain individuals are allowed to provide services after the self-declaration and fingerprinting is received by the Department, except when they have disclosed a designated crime listed in IDAPA 16.05-06, "Rules Governing Mandatory Criminal History Checks." The criminal history check requirements applicable to each provider type are found in the rules that state the qualifications of those providers. (7-1-06)T(1-1-07)T~~

~~a. The employer, at its discretion, may allow an individual to provide care or services on a provisional basis once the application for a criminal history and background check is completed and notarized and the employer has reviewed the application for any disqualifying crimes or relevant records. The employer determines whether the individual could pose a health and safety risk to the vulnerable participants it serves. The individual is not allowed to provide care or services when the employer determines the individual has disclosed a disqualifying crime or relevant record. (1-1-07)T~~

~~b. Those individuals licensed or certified by the Department are not available to provide services or receive licensure or certification until the criminal history and background check is completed and a clearance issued by the Department. (1-1-07)T~~

~~04. Providers Subject to Criminal History and Background Check Requirements. The following providers are required to have a criminal history and background check: (7-1-06)T~~

~~b. Certified Family Home Providers and All Adults in the Home. The criminal history and background check requirements applicable to certified family homes are found in Subsections 341.01 and 705.01 of these rules, and as provided in IDAPA 16.03.19, "Rules Governing Certified Family Homes." (7-1-06)T(7-1-06)T~~

~~c. Developmental Disabilities Agencies (DDA). The criminal history and background check for DDA and staff as provided in IDAPA 16.04.11, "Rules Governing Developmental Disabilities Agencies," Sections 301 and 761 009. (7-1-06)T(7-1-06)T~~

Section 010, and Subsections 010.09 and 010.14 Through 010.39

010. DEFINITIONS A THROUGH D.

For the purposes of these rules, the following terms are used as defined below:

(7-1-06)T

09. Audit. An examination of *facility provider* records on the basis of which an opinion is expressed representing the compliance of a provider's financial statements *and records* with Medicaid law, regulations, and rules. *(7-1-06)F(7-1-06)T*

~~**14. Beneficiaries.** Persons who are eligible for and receive benefits under federal health insurance programs such as Title XVIII, Title XIX, and Title XXI.~~ *(7-1-06)F*

~~**15. Betterments.** Improvements to assets which increase their utility or alter their use.~~ *(7-1-06)F*

~~**16. Buy-In Coverage.** The amount the State pays for Part B of Title C XVIII on behalf of the participant.~~ *(7-1-06)F*

~~**174. Capitalize.** The practice of accumulating expenditures related to long-lived assets which will benefit later periods.~~ *(7-1-06)T*

~~**185. Case Mix Adjustment Factor.** The factor used to adjust a provider's direct care rate component for the difference in the average Medicaid acuity and the average *nursing* facility-wide acuity. The average Medicaid acuity is from the picture date immediately preceding the rate period. The average *nursing* facility-wide acuity is the average of the indexes that correspond to the cost reporting period.~~ *(7-1-06)F(7-1-06)T*

~~**196. Case Mix Index (CMI).** A numeric score assigned to each *nursing* facility resident, based on the resident's physical and mental condition, that projects the amount of relative resources needed to provide care to the resident.~~ *(7-1-06)F(7-1-06)T*

~~**a. Nursing Facility Wide Case Mix Index.** The average of the entire *nursing* facility's case mix indexes identified at each picture date during the cost reporting period. If case mix indexes are not available for applicable quarters due to lack of data, case mix indexes from available quarters will be used.~~ *(7-1-06)F(7-1-06)T*

~~**b. Medicaid Case Mix Index.** The average of the weighting factors assigned to each Medicaid resident in the facility on the picture date, based on their RUG classification. Medicaid or non-Medicaid status is based upon information contained in the MDS databases. To the extent that Medicaid identifiers are found to be incorrect, the Department may adjust the Medicaid case mix index and reestablish the reimbursement rate.~~ *(7-1-06)T*

~~**c. State-Wide Average Case Mix Index.** The simple average of all *nursing* facilities "facility wide" case mix indexes used in establishing the reimbursement limitation July 1st of each year. The state-wide case mix index will be calculated annually during each July 1st rate setting.~~ *(7-1-06)F(7-1-06)T*

~~**2017. Certified Family Home.** A home certified by the Department to provide care to one (1) or two (2) adults, who are unable to reside on their own and require help with activities of daily living, protection and security, and need encouragement toward independence.~~ *(7-1-06)T*

~~**218. Chain Organization.** A proprietorship, partnership, or corporation that leases, manages, or owns two (2) or more facilities that are separately licensed.~~ *(7-1-06)T*

~~**2219. Claim.** An itemized bill for services rendered to one (1) participant by a provider *and* submitted ~~on any of the following to the~~ Department *claim forms for payment*.~~ *(7-1-06)F(7-1-06)T*

~~**20. Clinical Nurse Specialist.** A licensed professional nurse who meets all the applicable requirements to practice as clinical nurse specialist under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing."~~ *(7-1-06)T*

~~231.~~ **Collateral Contacts.** Contacts made with a parent, guardian, or other individual having a primary relationship to the patient by an appropriately qualified treatment professional. The contact must be ordered by a physician, contained in the treatment plan, directed at the medical treatment of the patient, and documented in the progress notes or continuous service record. ~~(7-1-06)T~~(7-1-06)T

~~242.~~ **Common Ownership.** An individual, individuals, or other entities who have equity or ownership in two (2) or more organizations which conduct business transactions with each other. Common ownership exists if an individual or individuals possess significant ownership or equity in the provider and the institution or organization serving the provider. (7-1-06)T

~~253.~~ **Compensation.** The total of all remuneration received, including cash, expenses paid, salary advances, etc. (7-1-06)T

~~264.~~ **Control.** Control exists where an individual or an organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution. (7-1-06)T

~~275.~~ **Cost Center.** A "collection point" for expenses incurred in the rendering of services, supplies, or materials that are related or so considered for cost-accounting purposes. (7-1-06)T

~~286.~~ **Cost Component.** The portion of the *nursing* facility's rate that is determined from a prior cost report, including property rental rate. The cost component of a *nursing* facility's rate is established annually at July 1st of each year. ~~(7-1-06)T~~(7-1-06)T

~~297.~~ **Cost Reimbursement System.** A method of fiscal administration of Title XIX and Title XXI which compensates the provider on the basis of expenses incurred. (7-1-06)T

~~3028.~~ **Cost Report.** A fiscal year report of provider costs required by the Medicare program and any supplemental schedules required by the Department. (7-1-06)T

~~3129.~~ **Cost Statements.** An itemization of costs and revenues, presented on the accrual basis, which is used to determine cost of care for facility services for a specified period of time. These statements are commonly called income statements. (7-1-06)T

~~320.~~ **Costs Related to Patient Care.** All necessary and proper costs which are appropriate and helpful in developing and maintaining the operation of patient care facilities and activities. Necessary and proper costs related to patient care are usually costs which are common and accepted occurrences in the field of the provider's activity. They include, but are not limited to, costs such as depreciation, interest expenses, nursing costs, maintenance costs, administrative costs, costs of employee pension plans, and normal standby costs. (7-1-06)T

~~331.~~ **Costs Not Related to Patient Care.** Costs which are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Such costs are nonallowable in computing reimbursable costs. They include, for example, cost of meals sold to visitors or employees; cost of drugs sold to other than patients; cost of operation of a gift shop; and similar items. Travel and entertainment expenses are nonallowable unless it can be specifically shown that they relate to patient care and for the operation of the nursing facility. (7-1-06)T

~~342.~~ **Customary Charges.** Customary charges are the rates charged to Medicare *beneficiaries participants* and to patients liable for such charges, as reflected in the facility's records. Those charges are adjusted downward, when the provider does not impose such charges on most patients liable for payment on a charge basis or, when the provider fails to make reasonable collection efforts. The reasonable effort to collect such charges is the same effort necessary for Medicare reimbursement as is needed for unrecovered costs attributable to certain bad debt under PRM, Chapter 3, Sections 310 and 312. ~~(7-1-06)T~~(7-1-06)T

~~353.~~ **Day Treatment Services.** Day treatment services are developmental services provided regularly during normal working hours on weekdays by, or on behalf of, the ~~provider~~ *Intermediate Care Facility for the Mentally Retarded (ICF/MR)*. However, day treatment services do not include recreational therapy, speech therapy,

physical therapy, occupational therapy, or services paid for or required to be provided by a school or other entity. ~~(7-1-06)T~~(7-1-06)T

364. Department. The ~~state of~~ Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department. ~~(7-1-06)T~~(7-1-06)T

375. Depreciation. The systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated life of the assets. (7-1-06)T

386. Developmental Disability (DD). A developmental disability, as defined in Section 66-402, Idaho Code, means a chronic disability of a person which appears before the age of twenty-two (22) years of age; and (7-1-06)T

a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one (1) of these impairments, which requires similar treatment or services or is attributable to dyslexia resulting from such impairments; (7-1-06)T

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and (7-1-06)T

c. Reflects the need for a combination or sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated. (7-1-06)T

397. Direct Care Costs. Costs directly assigned to the nursing facility or allocated to the nursing facility through the Medicare cost finding principles and consisting of the following: (7-1-06)T

a. Direct nursing salaries that include the salaries of professional nurses (RN), licensed professional nurses, certified nurse's aides, and unit clerks; (7-1-06)T

b. Routine nursing supplies; (7-1-06)T

c. Nursing administration; (7-1-06)T

d. Direct portion of Medicaid related ancillary services; (7-1-06)T

e. Social services; (7-1-06)T

f. Raw food; (7-1-06)T

g. Employee benefits associated with the direct salaries: and (7-1-06)T

h. Medical waste disposal, for rates with effective dates beginning July 1, 2005. (7-1-06)T

4038. Director. The Director of the Department of Health and Welfare or his designee. (7-1-06)T

4139. Durable Medical Equipment (DME). Equipment other than prosthetics or orthotics which can withstand repeated use by one (1) or more individuals, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of an illness or injury, is appropriate for use in the home, and is reasonable and necessary for the treatment of an illness or injury for a medical assistance participant. (7-1-06)T

Section 011 and Subsections 011.04 Through 011.30

011. DEFINITIONS E THROUGH K.
For the purposes of these rules, the following terms are used as defined below: (7-1-06)T

- 04.** Enhanced Plan. *The medical assistance benefits included under this chapter of rules.* (7-1-06)T
- 05.** EPSDT. *Early and Periodic Screening Diagnosis and Treatment.* (7-1-06)T
- 046.** **Equity.** The net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles. (7-1-06)T
- 057.** **Facility.** Facility refers to a hospital, nursing facility, or an intermediate care facility for persons with mental retardation. ~~(7-1-06)T~~(7-1-06)T
- a.** “Free-standing Nursing Facility” means a nursing facility that is not owned, managed, or operated by, nor is otherwise a part of a licensed hospital. (7-1-06)T
- b.** “Intermediate Care Facility for Persons with Mental Retardation (ICF/MR)” means ~~a facility licensed as an ICF/MR and federally certified to provide care to Medicaid and Medicare patients~~ an entity as defined in Subsection 011.29 in this rule. ~~(7-1-06)T~~(7-1-06)T
- c.** “Nursing Facility (NF)” means a facility licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare patients. (7-1-06)T
- d.** “Skilled Nursing Facility” means a nursing facility licensed by the Department to provide twenty-four (24) hour skilled nursing services and federally certified as a “Nursing Facility” under Title XVIII. (7-1-06)T
- e.** “Urban Hospital-Based Nursing Facilities” means hospital-based nursing facilities located within a metropolitan statistical area (MSA) as defined by the United States Bureau of the Census. (7-1-06)T
- 068.** **Fiscal Year.** An accounting period that consists of twelve (12) consecutive months. (7-1-06)T
- 079.** **Forced Sale.** A forced sale is a sale required by a bankruptcy, foreclosure, the provisions of a will or estate settlement pursuant to the death of an owner, physical or mental incapacity of an owner which requires ownership transfer to existing partner or partners, or a sale required by the ruling of a federal agency or by a court order. (7-1-06)T
- 0810.** **Funded Depreciation.** Amounts deposited or held which represent recognized depreciation. (7-1-06)T
- 0911.** **Generally Accepted Accounting Principles (GAAP).** A widely accepted set of rules, conventions, standards, and procedures for reporting financial information as established by the Financial Standards Accounting Board. (7-1-06)T
- 102.** **Goodwill.** The amount paid by the purchaser that exceeds the value of the net tangible assets. The value of goodwill is derived from the economic benefits that a going concern may enjoy, as compared with a new one, from established relations in the related markets, with government departments and other noncommercial bodies and with personal relationships. These intangible assets cannot be separated from the business and sold as can plant and equipment. Under the theory that the excess payment would be made only if expected future earnings justified it, goodwill is often described as the price paid for excess future earnings. The amortization of goodwill is a nonallowable, nonreimbursable expense. (7-1-06)T
- 11.** **Health Authority.** ~~An authorized official of any of the seven (7) Idaho District Health Departments or their satellite centers.~~ (7-1-06)T
- 13.** Healthy Connections. *The primary care case management model of managed care under Idaho Medicaid.* (7-1-06)T
- 124.** **Historical Cost.** The actual cost incurred in acquiring and preparing an asset for use, including

- feasibility studies, architects' fees, and engineering studies. (7-1-06)T
- 135. ICF/MR Living Unit.** The physical structure that an ICF/MR uses to house patients. (7-1-06)T
- 146. Improvements.** Improvements to assets which increase their utility or alter their use. (7-1-06)T
- 157. Indirect Care Costs.** The following costs either directly coded to the nursing facility or allocated to the nursing facility through the Medicare step-down process described in the PRM: (7-1-06)T
- a. Activities; (7-1-06)T
 - b. Administrative and general care costs; (7-1-06)T
 - c. Central service and supplies; (7-1-06)T
 - d. Dietary (non-“raw food” costs); (7-1-06)T
 - e. Employee benefits associated with the indirect salaries; (7-1-06)T
 - f. Housekeeping; (7-1-06)T
 - g. Laundry and linen; (7-1-06)T
 - h. Medical records; (7-1-06)T
 - i. Other costs not included in direct care costs, or costs exempt from cost limits; and (7-1-06)T
 - j. Plant operations and maintenance (excluding utilities). (7-1-06)T
- 168. Inflation Adjustment.** The cost used in establishing a nursing facility's prospective reimbursement rate is indexed forward from the midpoint of the cost report period to the midpoint of the rate year using the inflation factor plus one percent (+1%) per annum. (7-1-06)T
- 179. Inflation Factor.** For use in establishing nursing facility prospective rates, the inflation factor is the Skilled Nursing Facility Market Basket as established by Data Resources, Inc. (DRI), or its successor. If subsequent to the effective date of these rules, Data Resources, Inc., or its successor develops an Idaho-specific nursing facility index, it will be used. The Department is under no obligation to enter into an agreement with DRI or its successor to have an Idaho-specific index established. The national index is used when there is no state or regional index. (7-1-06)T
- 1820. In-State Care.** Medical services provided within the Idaho border or in counties bordering Idaho are considered to be in-state, excluding long term care. (7-1-06)T
- 1921. Inspection of Care Team (IOCT).** An interdisciplinary team which provides inspection of care in intermediate care facilities for the mentally retarded approved by the Department as providers of care for eligible medical assistance participants. Such a team is composed of: (7-1-06)T
- a. At least one (1) registered nurse; and (7-1-06)T
 - b. One (1) qualified mental retardation professional; and when required, one (1) of the following: (7-1-06)T
 - i. A consultant physician; or (7-1-06)T
 - ii. A consultant social worker; or (7-1-06)T
 - iii. When appropriate, other health and human services personnel responsible to the Department as

employees or consultants. (7-1-06)T

202. Instrumental Activities of Daily Living (IADL). Those activities performed in supporting the activities of daily living, including, but not limited, to managing money, preparing meals, shopping, light housekeeping, using the telephone, or getting around in the community. (7-1-06)T

243. Interest. The cost incurred for the use of borrowed funds. (7-1-06)T

224. Interest on Capital Indebtedness. The cost incurred for borrowing funds used for acquisitions of capital assets, improvements, etc. These costs are reported under property costs. (7-1-06)T

235. Interest on ~~Current Indebtedness~~ Working Capital. The costs incurred for borrowing funds which will be used for “working capital” purposes. These costs are reported under administrative costs. ~~(7-1-06)T~~(7-1-06)T

246. Interest Rate Limitation. The interest rate allowed for working capital loans and for loans for major movable equipment for ICF/MR facilities is the prime rate as published in the western edition of the Wall Street Journal or successor publication, plus one percent (+1%) at the date the loan is made. (7-1-06)T

257. Interim Reimbursement Rate (IRR). A rate paid for each Medicaid patient day which is intended to result in total Medicaid payments approximating the amount paid at audit settlement. The interim reimbursement rate is intended to include any payments allowed in excess of the percentile cap. (7-1-06)T

268. Intermediary. Any organization that administers the Title XIX and Title XXI program; in this case the Department of Health and Welfare. (7-1-06)T

279. Intermediate Care Facility for Persons with Mental Retardation (ICF/MR). ~~An intermediate care facility whose primary purpose is to provide habilitative services and maintain optimal health status for individuals with mental retardation or persons with related conditions. An entity licensed as an ICF/MR and federally certified to provide care to Medicaid and Medicare participants with developmental disabilities.~~ ~~(7-1-06)T~~(7-1-06)T

2830. Keyman Insurance. Insurance on owners or employees with extraordinary talents in which the direct or indirect beneficiary is the facility or its owners. Premiums related to keyman insurance are not allowable. ~~(7-1-06)T~~(7-1-06)T

Section 012, Subsections 012.12, 012.14, 012.16 Through 012.31

012. DEFINITIONS L THROUGH O.

For the purposes of these rules, the following terms are used as defined below: (7-1-06)T

12. Medicaid Related Ancillary Costs. For the purpose of these rules, those services provided in nursing facilities considered to be ancillary by Medicare cost reporting principles. Medicaid related ancillary costs will be determined by apportioning direct and indirect costs associated with each ancillary service to Medicaid residents by dividing Medicaid charges into total charges for that service. The resulting percentage, when multiplied by the ancillary service cost, will be considered Medicaid related ancillaries. ~~(7-1-06)T~~(7-1-06)T

14. Medical Necessity (Medically Necessary). A service is medically necessary if: ~~(7-1-06)T~~(7-1-06)T

16. Medicare Savings Program. The program formerly known as “Buy-In Coverage.” where the state pays the premium amount for participants eligible for Medicare Parts A and B of Title XVIII. (7-1-06)T

167. Minimum Data Set (MDS). A set of screening, clinical, and functional status elements, including common definitions and coding categories, that forms the foundation of the comprehensive assessment for all

residents of long term care facilities certified to participate in Medicare or Medicaid. The version of the assessment document used for rate setting is version 2.0. Subsequent versions of the MDS will be evaluated and incorporated into rate setting as necessary. (7-1-06)T

178. Minor Movable Equipment. Minor movable equipment includes such items as wastebaskets, bedpans, syringes, catheters, silverware, mops, buckets, etc. Oxygen concentrators used in lieu of bottled oxygen may, at the facility's option, be considered minor movable equipment with the cost reported as a medical supply. The general characteristics of this equipment are: (7-1-06)T

- a. No fixed location and subject to use by various departments of the provider's facility; (7-1-06)T
- b. Comparatively small in size and unit cost under five thousand dollars (\$5000); (7-1-06)T
- c. Subject to inventory control; (7-1-06)T
- d. Fairly large quantity in use; and (7-1-06)T
- e. A useful life of less than three (3) years. (7-1-06)T

189. Necessary. The purchase of goods or services that is required by law, prudent management, and for normal, efficient and continuing operation of patient related business. (7-1-06)T

190. Negotiated Service Agreement (NSA). The plan reached by the resident and his representative, or both, and the facility or certified family home based on the assessment, physician or authorized provider's orders, admissions records, and desires of the resident. The NSA must outline services to be provided and the obligations of the facility or certified family home and the resident. (7-1-06)T

201. Net Book Value. The historical cost of an asset, less accumulated depreciation. (7-1-06)T

212. New Bed. Subject to specific exceptions stated in these rules, a bed is considered new if it adds to the number of beds for which a nursing facility is licensed on or after July 1, 1999. ~~(7-1-06)T~~(7-1-06)T

223. Nominal Charges. A public provider's charges are nominal where aggregate charges amount to less than one-half (1/2) of the reasonable cost of the related services. (7-1-06)T

234. Nonambulatory. Unable to walk without assistance. (7-1-06)T

245. Nonprofit Organization. An organization whose purpose is to render services without regard to gains. (7-1-06)T

256. Normalized Per Diem Cost. Refers to direct care costs that have been adjusted based on the nursing facility's case mix index for purposes of making the per diem cost comparable among nursing facilities. Normalized per diem costs are calculated by dividing the nursing facility's direct care per diem costs by its nursing facility-wide case mix index, and multiplying the result by the statewide average case mix index. ~~(7-1-06)T~~(7-1-06)T

267. Nurse Practitioner. A licensed professional nurse (RN) who meets all the applicable requirements to practice as nurse practitioner under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (7-1-06)T

278. Nursing Facility (NF). An institution, or distinct part of an institution, which is primarily engaged in providing skilled nursing care and related services for participants. *It must be an entity licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare participants.* The participant must require medical or nursing care, or rehabilitation services for injuries, disabilities, or illness. ~~(7-1-06)T~~(7-1-06)T

289. Nursing Facility Inflation Rate. See the definition of Inflation Factor in Subsection 011.17 of these rules. (7-1-06)T

~~2930.~~ **Ordinary.** Ordinary means that the costs incurred are customary for the normal operation of the business. (7-1-06)T

~~301.~~ **Out-of-State Care.** Medical service that is not provided in Idaho or bordering counties is considered out-of-state. Bordering counties outside Idaho are considered out-of-state for the purpose of authorizing long term care. (7-1-06)T

Section 013, Subsections 013.01, 013.08, 013.14, 013.15, 013.18 through 013.46

013. DEFINITIONS P THROUGH Z.

For the purposes of these rules, the following terms are used as defined below: (7-1-06)T

01. Patient Day. *For a nursing facility or an ICF/MR,* a calendar day of care which will include the day of admission and exclude the day of discharge unless discharge occurs after 3:00 p.m. or it is the date of death, except that, when admission and discharge occur on the same day, one (1) day of care will be deemed to exist. ~~(7-1-06)T~~(7-1-06)T

08. Picture Date. A point in time when case mix indexes are calculated for every *nursing* facility based on the residents in the *nursing* facility on that day. The picture date to be used for rate setting will be the first day of the first month of a quarter. The picture date from that quarter will be used to establish the *nursing* facility's rate for the next quarter. ~~(7-1-06)T~~(7-1-06)T

14. Property Rental Rate. A rate paid per Medicaid patient day to ~~other than hospital-based free-standing~~ *nursing facilities and ICF/MRs* in lieu of reimbursement for property costs other than property taxes, property insurance, and the property costs of major movable equipment at ICF/MR facilities. ~~(7-1-06)T~~(7-1-06)T

15. Provider. Any individual, *partnership, association, corporation or organization, or business entity furnishing public or private, that furnishes* medical goods or services in compliance with ~~this chapter these rules and~~ who has *applied for and received* a Medicaid provider number and has entered into a written provider agreement with the Department *in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205.* ~~(7-1-06)T~~(7-1-06)T

~~**18. Prudent Buyer.** A prudent buyer is one who seeks to minimize cost when purchasing an item of standard quality or specification, PRM, Chapter 2100.~~ ~~(7-1-06)T~~

~~**198. Psychologist, Licensed.** A person licensed to practice psychology in Idaho under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners."~~ (7-1-06)T

~~**2019. Psychologist Extender.** A person who practices psychology under the supervision of a licensed psychologist as required under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners," and who is registered with the Bureau of Occupational Licenses.~~ (7-1-06)T

~~**210. Public Provider.** A public provider is one operated by a federal, state, county, city, or other local government agency or instrumentality.~~ (7-1-06)T

~~**22. Quality Improvement Organization (QIO).** An organization that performs utilization and quality control review of health care furnished to Medicare and Medicaid beneficiaries. A QIO is formerly known as a Peer Review Organization (PRO). In 42 CFR Chapters I, IV, and V, a "Quality Improvement Organization (QIO)" is replacing "Peer Review Organization (PRO)."~~ (7-1-06)T

231. Raw Food. Food used to meet the nutritional needs of the residents of a facility, including liquid dietary supplements, liquid thickeners, and tube feeding solutions. (7-1-06)T

242. Reasonable Property Insurance. Reasonable property insurance means that the consideration given is an amount that would ordinarily be paid by a cost-conscious buyer for comparable insurance in an arm's length transaction. Property insurance per licensed bed in excess of two (2) standard deviations above the mean of the most recently reported property insurance costs per licensed bed of all facilities in the reimbursement class as of the end of a facility's fiscal year cannot be considered reasonable. (7-1-06)T

253. Recreational Therapy (Services). Those activities or services that are generally perceived as recreation such as, but not limited to, fishing, hunting, camping, attendance or participation in sporting events or practices, attendance at concerts, fairs or rodeos, skiing, sightseeing, boating, bowling, swimming, training for Special Olympics, and special day parties (birthday, Christmas, etc.). (7-1-06)T

264. Regional Medicaid Services (RMS). Regional offices of the Division of Medicaid.
(7-1-06)T(7-1-06)T

275. Regional Nurse Reviewer (RNR). A registered nurse who reviews and makes determinations on applications for entitlement to and continued participation in Title XIX and Title XXI long term care for the Department. (7-1-06)T

26. Registered Nurse - R.N. Which in the state of Idaho is known as a Licensed Professional Nurse and who meets all the applicable requirements to practice as a licensed professional nurse under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01 "Rules of the Idaho Board of Nursing." (7-1-06)T

287. Related Entity. An organization with which the provider is associated or affiliated to a significant extent, or has control of, or is controlled by, that furnishes services, facilities, or supplies for the provider (7-1-06)T

298. Related to Provider. The provider, to a significant extent, is associated or affiliated with, or has control of, or is controlled by, the organization furnishing the services, facilities, or supplies. (7-1-06)T

3029. Residential Care or Assisted Living Facility. A facility or residence, however named, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals, and lodging to three (3) or more adults not related to the owner. In this chapter, Residential Care or Assisted Living Facilities are referred to as "facility." Distinct segments of a facility may be licensed separately, provided each segment functions independently and meets all applicable rules. (7-1-06)T

340. Resource Utilization Groups (RUG). A process of grouping residents according to the clinical and functional status identified by the responses to key elements of the MDS. The RUG Grouper is used for the purposes of rate setting. (7-1-06)T

321. Skilled Nursing Care. The level of care for patients requiring twenty-four (24) hour skilled nursing services. (7-1-06)T

332. Social Security Act. 42 USC 101 et seq., authorizing, in part, federal grants to the states for medical assistance to low-income persons meeting certain criteria. (7-1-06)T

343. Speech/Language Pathology and Audiology Services. Diagnostic, screening, preventative, or corrective services provided by a licensed speech pathologist or audiologist, for which a patient is referred by a physician or other practitioner of the healing arts within the scope of his or her practice under state law. Speech, hearing and language services do not include equipment needed by the patient such as communication devices or environmental controls. (7-1-06)T

354. State Plan. The contract between the state and federal government under 42 U.S.C. section 1396a(a). (7-1-06)T

365. Supervision. Procedural guidance by a qualified person and initial direction and periodic

inspection of the actual act, at the site of service delivery. (7-1-06)T

~~376.~~ **Title XVIII.** ~~The Title XVIII of the Social Security Act, known as Medicare,~~ program for the aged, blind, and disabled administered ~~under the Social Security Act by the federal government.~~ (7-1-06)T(7-1-06)T

~~387.~~ **Title XIX.** Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (7-1-06)T

~~398.~~ **Title XXI.** Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP). This is a program that primarily pays for medical assistance for low-income children. (7-1-06)T

~~4039.~~ **Third Party.** Includes a person, institution, corporation, public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a participant of medical assistance. (7-1-06)T

~~410.~~ **Transportation.** The physical movement of a participant to and from a medical appointment or service by the participant, another person, taxi or common carrier. (7-1-06)T

~~421.~~ **Uniform Assessment.** A set of standardized criteria to assess functional and cognitive abilities. (7-1-06)T

~~432.~~ **Uniform Assessment Instrument (UAI).** A set of standardized criteria adopted by the Department of Health and Welfare to assess functional and cognitive abilities as described in IDAPA 16.03.23 "Rules Governing Uniform Assessments of State-Funded Clients." (7-1-06)T

~~443.~~ **Utilities.** All expenses for heat, electricity, water and sewer. (7-1-06)T

~~454.~~ **Utilization Control (UC).** A program of prepayment screening and annual review by at least one (1) Regional Nurse Reviewer to determine the appropriateness of medical entitlement and the need for continued medical entitlement of applicants or participants to Title XIX and Title XXI benefits in a nursing facility. (7-1-06)T

~~465.~~ **Utilization Control Team (UCT).** A team of Regional Nurse Reviewers which conducts on-site reviews of the care and services in the nursing facilities approved by the Department as providers of care for eligible medical assistance participants. (7-1-06)T

~~476.~~ **Vocational Services.** Services or programs which are directly related to the preparation of individuals for paid or unpaid employment. The test of the vocational nature of the service is whether the services are provided with the expectation that the participant would be able to participate in a sheltered workshop or in the general work force within one (1) year. (7-1-06)T

Sections 020, 021, and 022 - Entire Sections

020. PARTICIPATION IN THE COST OF WAIVER SERVICES.

01. Waiver Services and Income Limit. A participant is not required to participate in the cost of Home and Community Based (HCBS) waiver services unless: (7-1-06)T

a. The participant's eligibility for medical assistance is based on approval for and receipt of a waiver service; and (7-1-06)T

b. ~~He would not be income eligible because of excess income if not for~~ *The participant's income exceeds the eligibility requirement under* the HCBS income limit contained in IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 787. (7-1-06)T(7-1-06)T

02. ~~Excluded Income.~~ ~~Income excluded under the provisions of IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Sections 723 and 725, is excluded in determining~~

~~participation. **Waiver Cost-Sharing.** Participation in the cost of HCBS waiver services is determined as described in IDAPA 16.03.18, "Medicaid Cost-Sharing."~~ (7-1-06)F(7-1-06)T

~~**03. Base Participation.** Base participation is income available for participation after subtracting all allowable deductions, except for the incurred medical expense deduction in Subsection 020.08 of these rules. Base participation is calculated by the participant's Self Reliance Specialist. The incurred medical expense deduction is calculated by the RMS.~~ (7-1-06)F

~~**04. Community Spouse.** Except for the elderly or physically disabled participant's personal needs allowance, base participation for a participant with a community spouse is calculated under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 725. These allowances are specified in IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." A community spouse is the spouse of an HCBS participant who is not an HCBS participant and is not institutionalized. The HCBS personal needs allowance for a participant living in adult residential care equals the federal Supplemental Security Income (SSI) benefit rate for an individual living independently.~~ (7-1-06)T

~~**05. Home and Community Based Services (HCBS) Spouse.** Except for the elderly or physically disabled participant's personal needs allowance (PNA), base participation for a participant with an HCBS spouse is calculated and specified under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 723. An HCBS spouse is the spouse of a participant who also receives HCBS.~~ (7-1-06)T

~~**06. Personal Needs Allowance.** The participant's personal needs allowance depends on his marital status and legal obligation to pay rent or mortgage. The participant's personal needs allowance is deducted from his income after income exclusions and before other allowable deductions. To determine the amount of the personal needs allowance, use Table 020.06.~~

TABLE 020.06 – PERSONAL NEEDS ALLOWANCE			
Amount of Personal Needs Allowance (PNA) for Participation			
Not Responsible for Rent or Mortgage		Responsible for Rent or Mortgage	
Marital Status	PNA	Marital Status	PNA
No Spouse	One hundred percent (100%) of the federal SSI benefit for a person with no spouse	No Spouse	One hundred and fifty percent (150%) of the Federal SSI benefit for a person with no spouse
Married with Community Spouse	One hundred and fifty percent (150%) of the Federal SSI benefit for a person with no spouse	Married with Community Spouse	One hundred and fifty percent (150%) of the Federal SSI benefit for a person with no spouse
Married with HCBS Spouse	One hundred percent (100%) of the Federal SSI benefit for a person with no spouse. Each spouse receives this amount as his PNA.	Married with HCBS Spouse	One hundred and fifty percent (150%) of the Federal SSI benefit for a single person. Each spouse receives this amount as his PNA.

(7-1-06)T

~~**07. Developmentally Disabled or TBI Participants.** These allowances are specified in IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." The HCBS personal needs allowance for adult participants receiving waiver services under the Developmentally Disabled Waiver, or the Traumatic Brain Injury (TBI) Waiver, is three (3) times the federal SSI benefit amount to an individual in his own home.~~ (7-1-06)T

~~**08. Incurred Medical Expenses.** Amounts for certain limited medical or remedial services not covered by the Idaho Medicaid Plan and not paid by a third party may be deducted from the base participation amount. The~~

~~Department must determine whether a participant's incurred expenses for such limited services meet the criteria for deduction. The participant must report such expenses and provide verification in order for an expense to be considered for deduction. Costs for over-the-counter medications are included in the personal needs allowance and will not be considered a medical expense. Deductions for necessary medical or remedial expenses approved by the Department will be deducted at application, and changed, as necessary, based on changes reported to the Department by the participant.~~ (7-1-06)T

~~**09. Remainder After Calculation.** Any remainder after the calculation in Subsection 020.06 of these rules is the maximum participation to be deducted from the participant's provider payments to offset the cost of services. The participation amount will be collected from the participant by the provider. The provider and the participant will be notified by the Department of the amount to be collected.~~ (7-1-06)T

~~**10. Recalculation of Participation.** The participant's participation amount must be recalculated annually at redetermination or whenever a change in income or deductions becomes known to the Department.~~ (7-1-06)T

~~**11. Adjustment of Participation Overpayment or Underpayment Amounts.** The participant's participation amount is reduced or increased the month following the participant overpaid or underpaid the provider.~~ (7-1-06)T

021. MEDICARE SAVINGS PROGRAM FOR PARTICIPANTS COVERED BY MEDICARE.

The Department has an agreement with the Centers for Medicare and Medicaid Services (CMS) to pay the premiums for Parts A and B of Title XVIII for each participant eligible for Medicare and medical assistance regardless of whether the participant receives a financial grant from the Department. (7-1-06)T

01. AABD Effective Date. The effective date of the Medicare Savings Program for a participant approved for medical assistance and an AABD grant is the first month of eligibility for the AABD grant. (7-1-06)T

02. SSI Effective Date. The effective date of the Medicare Savings Program for a participant approved for medical assistance who also receives SSI, but not AABD, is the first month of eligibility for medical assistance. (7-1-06)T

03. Neither AABD or SSI Effective Date. The effective date of the Medicare Savings Program for a participant approved for medical assistance who does not receive an AABD grant or SSI is the first day of the second month following the month in which he became eligible for medical assistance. This would mean the third month of medical assistance eligibility for the participant. (7-1-06)T

04. Update of Records. After the effective date of the Medicare Savings Program it takes the Social Security Administration up to one (1) month to update its records to show the Department's payment of the Medicare Savings Program premium. (7-1-06)T

05. Policies for Treatment of the Medicare Savings Program. The Department advises each participant who is paying Parts A and B Medicare premiums to discontinue payments beginning the month the Medicare Savings Program becomes effective. Policies for treatment of the Medicare Savings Program for determining eligibility for medical assistance or AABD, grant amount for AABD, or patient liability are in IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)". Policies for treatment of the Medicare Savings Program for determining participation of an HCBS participant are found in Section 020 of these rules. (7-1-06)T

021.2. PARTICIPANT'S REQUIREMENTS FOR ESTATE RECOVERY.

A participant's estate may be obligated to pay the Medicaid program back for the amount Medicaid paid out for medical assistance during the participant's life. The requirements for that estate recovery are found in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 900. (7-1-06)T

021.3. -- 024. (RESERVED).

Sections 031 through 039

031. -- 0395. (RESERVED).

036. GENERAL REIMBURSEMENT.

01. Long-Term Care Facility Payment. *Long-term care facilities will be reimbursed the lower of their customary charges, their actual reasonable costs, or the standard costs for their class as set forth in the Provider Reimbursement Manual, but the upper limits for payment must not exceed the payment which would be determined as reasonable costs using the Title XVIII Medicare standards and principles.* (7-1-06)T

02. Individual Provider Payment. *The Department will not pay the individual provider more than the lowest of:* (7-1-06)T

a. *The provider's actual charge for service; or* (7-1-06)T

b. *The maximum allowable charge for the service as established by the Department on its pricing file, if the service or item does not have a specific price on file, the provider must submit documentation to the Department and reimbursement will be based on the documentation; or* (7-1-06)T

c. *The Medicaid upper limitation of payment on those services, minus the Medicare payment, where a participant is eligible for both Medicare and Medicaid. The Department will not reimburse providers an amount in excess of the amount allowed by Medicaid, minus the Medicare payment.* (7-1-06)T

03. Payment for Speech, Occupational and Physical Therapy Services. *The fees for physical, occupational, and speech therapy include the use of therapeutic equipment to provide the modality or therapy. No additional charge may be made to either the Medicaid program or the client for the use of such equipment.* (7-1-06)T

037. -- 038. (RESERVED).

039. ACCOUNTING TREATMENT.

Generally accepted accounting principles, concepts, and definitions will be used except as otherwise specified. Where alternative treatments are available under GAAP, the acceptable treatment will be the one that most clearly attains program objectives. (7-1-06)T

01. Final Payment. *A final settlement will be made based on the reasonable cost of services as determined by audit, limited in accordance with other sections of this chapter. In addition, an efficiency incentive will be allowed to low cost providers in accordance with the provisions of Section 296 of these rules.* (7-1-06)T

02. Overpayments. *As a matter of policy, recovery of overpayments will be attempted as quickly as possible consistent with the financial integrity of the provider.* (7-1-06)T

03. Other Actions. *Generally, overpayment will result in two (2) circumstances:* (7-1-06)T

a. *If the cost report is not filed, the sum of the following will be due:* (7-1-06)T

i. *All payments included in the period covered by the missing report(s).* (7-1-06)T

ii. *All subsequent payments.* (7-1-06)T

b. *Excessive reimbursement or non-covered services may precipitate immediate audit and settlement for the period(s) in question. Where such a determination is made, it may be necessary that the interim reimbursement rate (IRR) will be reduced. This reduction will be designated to effect at least one (1) of the following:* (7-1-06)T

i. *Discontinuance of overpayments (on an interim basis).* (7-1-06)T

ii. Recovery of overpayments.

~~(7-1-06)T~~

Section 050

050. DRAFT AUDIT REPORT.

Following completion of the audit field work on a hospital, nursing facility, or an ICF/MR, and before issuing the interim final audit report to the Department, the auditor will issue a draft audit report and forward a copy to the provider for review and comment.

~~(7-1-06)T~~

Section 096

096. ORGAN TRANSPLANTS - ~~PAYMENT METHODOLOGY PROVIDER REIMBURSEMENT.~~

Organ transplant and procurement services by facilities approved for kidneys, bone marrow, liver, or heart will be reimbursed the lesser of ninety-six and a half percent (96.5%) of reasonable costs under Medicare payment principles or customary charges. Follow-up care provided to an organ transplant patient by a provider not approved for organ transplants will be reimbursed at the provider's normal reimbursement rates. Reimbursement to Independent Organ Procurement Agencies and Independent Histocompatibility Laboratories will not be covered.

~~(4-7-05)T~~

Section 111, Subsections 111.04, and 111.08

111. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES - DEFINITIONS.

These definitions apply to Sections 100 through 146 of these rules.

(7-1-06)T

04. **Initial Contact.** The date a participant, parent, or legal guardian ~~signs the request for assessment~~ hours requests Enhanced Plan services.

~~(7-1-06)T~~

08. **Partial Care.** Partial care is treatment for those children with serious emotional disturbance and adults with severe and persistent mental illness whose functioning is sufficiently disrupted so as to interfere with their productive involvement in daily living. Partial care services are a structured program of therapeutic interventions that assist program participants in the stabilization of their behavior and conduct through the application of principles of behavior modification for behavior change and structured, goal-oriented group socialization for skill acquisition.

~~(7-1-06)T~~

Section 112, Subsections 112.01, 112.01.c., 112.02, 112.02.d., 112.03, and 112.05

112. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES - PARTICIPANT ELIGIBILITY.

In order to qualify for Enhanced Outpatient Mental Health Services, a participant must obtain a Comprehensive Assessment as described in Section 113 of these rules. The comprehensive assessment for PSR, Partial Care, and Psychotherapy must provide documentation of the medical necessity for each service to be provided.

~~(7-1-06)T~~

01. **General Participant Criteria.** In order for a participant to be eligible for Enhanced Outpatient Mental Health services, the following criteria must be met and documented:

~~(7-1-06)T~~

c. Participants identified in the list below are disqualified from participating in Enhanced Outpatient Mental Health services:

~~(7-1-06)T~~

02. **Eligibility Criteria for Children.** ~~A seriously emotionally disturbed child is an~~ Individuals under the age of eighteen (18) who ~~has~~ have a serious emotional disturbance (SED). The following definition of the SED target population is based on the definition of SED found in the Children's Mental Health Services Act, Section 16-

2403, Idaho Code.

~~(7-1-06)F(7-1-06)T~~

d. The disorder is considered to be a serious disability if it causes substantial impairment in functioning. Functional impairment must be assessed using the Child and Adolescent Functional Assessment Scale/Preschool and Early Childhood Functional Assessment Scale (CAFAS/PECFAS). Substantial impairment requires a full eight (8) scale score of eighty (80) or higher on the CAFAS or a full seven (7) scale score of eighty (80) or higher on the PECFAS with “moderate” impairment in at least one (1) of the following three (3) scales: ~~(7-1-06)F(7-1-06)T~~

03. Eligibility Criteria for Adults. ~~A severely and persistently mentally ill adult is any~~ Individuals eighteen (18) years or older who ~~has~~ have a severe and persistent mental illness (SMPI). The following criteria are required to be a member of the target population based on the guidelines taken from the Federal Register under Section 1912(c) of the Public Health Services Act and as amended by Public Law 102-321 “adults with a serious mental illness.” ~~(7-1-06)F(7-1-06)T~~

05. ~~Participant Criteria Specific to PSR~~ Criteria Following Discharge For Psychiatric Hospitalization. Children and adults discharged from psychiatric hospitalization and who meet the diagnostic criteria of the target population in these rules are eligible for enhanced outpatient mental health clinic and PSR services. (7-1-06)T

a. Children and adults discharged from psychiatric hospitalization and who meet the diagnostic criteria of the target population in these rules, described in Subsection 112.02 of these rules for children, and in Subsection 112.03 of these rules for adults, are considered immediately eligible for PSR services for a period of at least one hundred and twenty (120) days following discharge from the hospital. The individualized treatment plan must be completed and submitted to the Department for prior authorization within ten (10) days of discharge. ~~(7-1-06)F(7-1-06)T~~

ai. Up to two (2) hours of plan development hours may be ~~prior authorized~~ for coordinating with hospital staff and others the participant chooses. These ~~prior authorized~~ plan development hours are to be used for the development of an individualized treatment plan based solely on the participant's hospital records and past history. The provider agency does not have to perform any additional assessment nor does the participant need to qualify as described in Subsection 113.01 of these rules. ~~(7-1-06)F(7-1-06)T~~

bii. Upon submission of the completed individualized treatment plan to the Department or its designee, PSR services may be prior authorized for no more than one hundred twenty (120) days. For services to continue beyond one hundred twenty (120) days, the requirements of Section 129 of these rules must be met by the provider agency. (7-1-06)T

b. A mental health clinic may serve a participant with Enhanced Plan services following a psychiatric hospitalization after a comprehensive assessment has been completed that has established the participant meets the criteria for Serious Emotional Disturbance (SED) or Severe and Persistent Mental Illness (SPMI). The mental health clinic provider does not need to submit form H0002 because the participant is already in the Enhanced Plan. (7-1-06)T

Section 113, Subsections 113.01.a., 113.02, 113.02.d., and 113.10

113. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES - COMPREHENSIVE ASSESSMENT.

In order to determine eligibility for Enhanced Outpatient Mental Health services, a comprehensive assessment must first be completed. The assessment must address the participant's strengths and supports, deficits and needs, and must be directed toward formulation of a diagnosis and a written individualized treatment plan. The participant must take part in the assessment to the fullest extent possible. The assessment must be directly related to the participant's mental illness and level of functioning. Information regarding services received from any of the participant's service provider(s) must be collected and reported on the comprehensive assessment. The assessment and supplemental

psychiatric, psychological, or other specialty evaluations and tests must be written, dated, signed and be retained in the participant's ~~file~~ medical record. The assessment is reimbursable if conducted by qualified PSR provider agency staff listed under Section 131 of these rules, or qualified Mental Health Clinic staff listed in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 714~~5~~. Each of the following areas must be assessed initially and at least annually thereafter. ~~(7-1-06)T(7-1-06)T~~

01. Psychiatric History and Current Mental Status. Psychiatric history and current mental status which includes, at a minimum: (7-1-06)T

a. Diagnosis documented within the last twelve (12) months in a face to face evaluation by a licensed physician or other licensed practitioner of the healing arts, licensed master's level psychiatric nurse, licensed psychologist, licensed clinical professional counselor, licensed marriage and family therapist, or licensed clinical social worker within the scope of his practice under state law; ~~(7-1-06)T(7-1-06)T~~

02. ~~Health or Medical History And Current Medical Status Issues.~~ Medical history and current medical status which includes at a minimum, history of any major non-psychiatric illnesses, surgeries, hospitalizations, dates of last physical, dental, or eye examinations, pertinent family history of medical illness, current health problems or needs, current medications, name of current primary physician; health or medical issues or both including medical complications that result from mental illness. ~~(7-1-06)T(7-1-06)T~~

~~**10. ~~Health or Medical Issues.~~** Health or medical issues, or both, including medical complications that result from the mental illness.~~ ~~(7-1-06)T~~

Section 114, Subsections 114.02.b. & c., 114.03, 114.06, and 114.07 through 114.09

114. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES - WRITTEN INDIVIDUALIZED TREATMENT PLAN.

A written individualized treatment plan must be developed and implemented for each participant of Enhanced Mental Outpatient Health Services as a means to address the enhanced service needs of the participant. Each Individualized Treatment Plan must specify the amount, frequency and expected duration of treatment. ~~(7-1-06)T(7-1-06)T~~

02. Plan Content. An individualized treatment plan must include the following, at a minimum: (7-1-06)T

b. A statement which identifies the participant's goal relative to the goals of Enhanced Outpatient Mental Health Services as per Sections 120 of these rules; ~~(7-1-06)T(7-1-06)T~~

c. Overall goals and concrete, measurable objectives to be achieved, including time frames for completion. At least one (1) objective is required for the focus areas which must likely lead to the greatest stabilizing impact. At a minimum, this should include at least one (1) objective in each of the two (2) focus areas which qualify the participant for Enhanced Outpatient Mental Health Services; ~~(7-1-06)T(7-1-06)T~~

03. Plan Timeframes. An individualized treatment plan must be developed and signed by a physician or a licensed practitioner of the healing arts within thirty (30) calendar days from initial face-to-face contact ~~between the provider agency staff and the participant, or the parent or legal guardian when the participant is a minor child.~~ ~~(7-1-06)T(7-1-06)T~~

06. Date of Plan. ~~Once~~ Following the completion of the comprehensive assessment and the date ~~of a~~ the plan is established, that date continues to be the annual date of the plan. ~~Any subsequent PSR treatment plans must be received by the Department or its designee on or before the expiration date of the current plan. If a subsequent~~

~~plan is not received on or before the expiration date of the current plan, services that are provided in the interim will not be reimbursed. Mental health clinics and PSR provider agencies serving the same participant must coordinate services such that the annual review date occurs on the same anniversary date.~~ (7-1-06)T(7-1-06)T

07. Choice of Providers. The eligible participant will be allowed to choose whether or not he desires to receive Enhanced Outpatient Mental Health Services and who the provider(s) of services will be to assist him in accomplishing the objectives stated in his individualized treatment plan. Documentation must be included in the participant's ~~file~~ medical record showing that the participant has been informed of his rights to refuse services and choose providers. (7-1-06)T(7-1-06)T

08. Authorization Time Period. PSR Service authorizations are limited to a twelve (12) month period and must be reviewed and updated at least annually. (7-1-06)T(7-1-06)T

09. No Duplication of Services. The Department provider agency or its designee must monitor, coordinate, and jointly plan with all known providers to a participant to prevent duplication of services provided to Enhanced Outpatient Mental Health Services participants through other Medicaid reimbursable and non-Medicaid programs. (7-1-06)T(7-1-06)T

Section 115 and Subsection 115.02.b.

115. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES - MENTAL HEALTH CLINICS (MHC).

All rules in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections ~~710~~ 707 through ~~717~~ 718 ~~applies apply~~ to Mental Health Clinic services in this chapter with the following enhancements. (7-1-06)T(7-1-06)T

02. Partial Care Services. Under the Medicaid Enhanced Plan, partial care services are limited to thirty-six (36) hours per week per eligible participant. (7-1-06)T

b. Staff Qualifications for Partial Care Services. Licensed, qualified professionals providing partial care services must have, at a minimum, one (1) or more of the qualifications listed in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection ~~714.07~~ 715.01. (7-1-06)T(7-1-06)T

Section 123, Subsections 123.05, and 123.07

123. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - DESCRIPTIONS.

The goal of PSR services is to aid participants in work, school, family, community, or other issues related to their mental illness. It is also to aid them in obtaining developmentally appropriate skills for living independently and to prevent movement to a more restrictive living situation. All services provided must be clinically appropriate in content, service location and duration and based on measurable and behaviorally specific and achievable objectives. ~~In order to prevent duplication, PSR services must be coordinated with all other services received by the participant.~~ PSR consists of the following services described in Subsections 123.01 through 123.08. (7-1-06)T(7-1-06)T

05. Collateral Contact. ~~Collateral contacts are contacts made with significant individuals in the participant's environment for the purpose of assisting the participant to live in the community. Collateral contacts may include a parent, legal guardian, relatives, family members, landlords, employers, teachers, providers or other individuals with a primary relationship to the participant. The purpose of collateral contacts is to gather and exchange information with individuals specifically identified in the individualized treatment plan. Collateral contacts must be prior authorized. Collateral contact is reimbursable if provided by an agency with a current provider agreement and the agency staff making the contacts meet the qualifications under Section 131 of these rules. Subsection 125.06 of these rules describes limitations on reimbursement for collateral contacts between provider agency staff. The types of collateral contact are as follows: Collateral contact is covered by Medicaid if it is included on the individualized treatment plan and is necessary to gather and exchange information with individuals having a~~

primary relationship to the participant.

~~(7-1-06)F~~(7-1-06)T

- a. Collateral contact face-to-face. When two (2) persons meet ~~visually~~ in person at the same time; ~~(7-1-06)F~~(7-1-06)T
- b. Collateral contact telephone. When it is the most expeditious and effective way to exchange information; and (7-1-06)T
- c. Collateral contact parent group. When two (2) or more parents ~~of whose~~ children ~~are~~ under the age of eighteen (18), ~~with~~ and have similar serious emotional disturbances, meet to share information and learn about their children's needs. ~~(7-1-06)F~~(7-1-06)T

07. Psychotherapy. Individual, group and family psychotherapy must be prior authorized and provided in accordance with the objectives specified in the written individualized treatment plan. Staff qualified to deliver psychotherapy and qualified supervisors of psychotherapy are identified in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections ~~710 707~~ through ~~717 718~~. Family psychotherapy must include the participant and at least one (1) family member ~~at any given time~~ and must be delivered in accordance with ~~objectives~~ the goals of treatment as specified in the written individualized treatment plan. ~~An agency must assure clinical supervision is available to all staff that provide psychotherapy. The amount of supervision should be adequate to insure that the individualized treatment plan objectives are achieved. Documentation of supervision must be maintained by the agency and be available for review by the Department.~~ ~~(7-1-06)F~~(7-1-06)T

Section 124 - Entire Section

124. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - COVERAGE AND LIMITATIONS.

The following service limitations apply to PSR services, unless otherwise authorized by the Department in each region. (7-1-06)T

01. Assessment ~~and Individualized Treatment Plan Development.~~ Any combination of evaluations or diagnostic services is limited to a maximum of six (6) hours annually. ~~Additional hours may be approved by the Department under the following situations:~~ ~~(7-1-06)F~~(7-1-06)T

- ~~a. When the participant selects more than one (1) provider. (7-1-06)F~~
- ~~b. When individualized treatment plan development is being done by an agency that did not do the assessment. (7-1-06)F~~

02. Individualized Treatment Plan. Two (2) hours per year per participant per provider agency are available for treatment plan development. (7-1-06)T

023. Psychotherapy. Individual, family and group psychotherapy services are limited to a maximum of twenty-four (24) hours annually. (7-1-06)T

034. Crisis Intervention Service. A maximum of twenty (20) hours of crisis support in a community may be reimbursed per crisis during any consecutive five (5) day period. Authorization must follow procedure described above at Subsection 123.06 of these rules. (7-1-06)T

045. Psychosocial Rehabilitation. ~~Individual and group~~ Any combination of PSR services excluding crisis hours are not to exceed twenty (20) hours per week and must ~~receive~~ be prior ~~authorization from~~ authorized by the Department. Services in excess of twenty (20) hours require additional review and prior authorization ~~by the Department in each region. The prior authorization of additional hours must be documented in the individualized treatment plan and written approval must be retained in the participant's file.~~ ~~(7-1-06)F~~(7-1-06)T

056. Place of Service. PSR services are to be home and community-based. (7-1-06)T

a. PSR services must be provided to the participant in his home and community whenever possible. Any other location, including a provider's office or clinic, may be used if the specific place of service is stated in the individualized treatment plan and is prior authorized. (7-1-06)T

b. PSR services may be provided to a participant living in a residential or assisted living facility if the PSR services are determined by the Department to be appropriate, desired by the resident, and are not the responsibility of the facility or another agency under the Negotiated Service Agreement for residential or assisted living facilities. (7-1-06)T

c. Prior to delivering any services in a school-based setting, the PSR agency must have a contract with the school or the Infant Toddler program. The PSR agency must not bill Medicaid or the Medicaid participant for these contracted services. Only the school district, charter school, or the Idaho Infant Toddler program may bill Medicaid for these contracted services when provided in accordance with IDAPA 16.03.09 "Medicaid Basic Plan Benefits." Sections 850 through 856. (7-1-06)T

Section 128 - Entire Section

128. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - RESPONSIBILITIES OF THE DEPARTMENT.

The Department will administer the provider agreement for the provision of PSR services and is responsible for the following tasks: (7-1-06)T

01. **Credentialing.** The Department is responsible for ensuring Medicaid PSR agencies meet credentialing requirements described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 712. ~~(5-1-06)T~~(5-1-06)T

~~02. **Assessment Authorization.** The Department will review requests for assessment hours and authorize as appropriate.~~ (7-1-06)T

~~03. **Individualized Treatment Plan Authorization Requirements.** Individualized treatment plans authorizations must include the following:~~ (7-1-06)T(7-1-06)T

a. Required Documentation. The required documentation for each individualized treatment plan includes: (7-1-06)T

i. Participant demographic information; (7-1-06)T

ii. A comprehensive assessment as provided in Subsection 123.01 of these rules; ~~and~~ (7-1-06)T(7-1-06)T

iii. A written individualized treatment plan as provided in Section 126 of these rules; ~~;~~ (7-1-06)T(7-1-06)T

iv. Adult ~~service~~ treatment plans ~~also~~ require a ~~rehabilitation outcome database.~~ mental health client profile; and (7-1-06)T(7-1-06)T

v. Children's individualized treatment plans also require the Child and Adolescent Functional Assessment Scale/Preschool and Early Childhood Functional Assessment Scale (CAFAS/PECFAS). (7-1-06)T

b. ~~Physician's Signature and~~ Receipt of Required Documentation. Reimbursement for services will be authorized from the date ~~of the physician's signature if the required documentation is received by the Department within thirty (30) days from the request of assessment hours. If the documentation is received after thirty (30) days from the date of the request of assessment hours, or after the expiration of the plan, the date to begin services is the~~ date the individualized treatment plan and other required documentation are received by the Department. For the annual update, all required documentation must be received by the Department before the expiration date of the current assessment and plan. In order for a prior authorization to remain valid throughout the treatment plan year,

documentation of the one hundred twenty (120) day reviews must comply with Subsection 136.05 of these rules.

~~(7-1-06)F~~(7-1-06)T

c. Hours and Type of Service. The Department must authorize the number of hours and type of services which could be reasonably expected to lead to achievement of the individualized treatment plan objectives.

(7-1-06)T

d. Authorization Time Period. Service authorizations are limited to a twelve (12) month period and must be reviewed and updated at least annually.

(7-1-06)T

~~e. No Duplication of Services. The Department must monitor, coordinate, and jointly plan with all known providers to a participant to prevent duplication of services provided to PSR participants through other Medicaid reimbursable and non-Medicaid programs.~~

~~(7-1-06)F~~

043. Notice of Decision. At the point *the Department makes* a decision ~~is made~~ that a participant is ineligible for PSR services, a notice of decision citing the reason(s) the participant is ineligible for PSR services must be issued by the Department. The notice of decision must be sent to the adult participant and a copy to his legal guardian, if any. When the participant is a minor child, the notice of decision must be sent to the minor child's parent or legal guardian.

~~(7-1-06)F~~(7-1-06)T

054. Changes Increases in Individualized Treatment Plan Hours or Change in Service Type. When the Department is notified, in writing, by the provider of recommended increases in hours or change in type of service provided, the Department must review the request and either approve or deny *the request* within ten (10) working days of receipt. A clear rationale for the *change increase* in hours or *change in* service type must be included with the request.

~~(7-1-06)F~~(7-1-06)T

065. Changes to Individualized Treatment Plan Objectives or Tasks. When a provider believes that an individualized treatment plan needs to be revised *without increasing hours or changing type of service*, the provider should ~~include that recommendation and rationale in documentation~~ *amend the individualized treatment plan at the time* of the next one hundred twenty-day (120) review. ~~The Department will review the information, and if appropriate, act on the recommendation. In the event or when~~ substantial changes in the participant's mental status or circumstances ~~occur requiring~~ *require* immediate changes in the plan objectives, ~~the provider must notify the Department, in writing, of its recommendation and rationale for the change. The Department has ten (10) working days to respond to and either approve or deny the request for change. The amended individualized treatment plan must be retained in the participant's record and submitted to the Department upon request.~~

~~(7-1-06)F~~(7-1-06)T

06. Service System. *The Department is responsible for the development, maintenance and coordination of regional, comprehensive and integrated service systems.*

(7-1-06)T

~~**07. Minor Changes to Individualized Treatment Plan Tasks.** When the Department is notified in writing by the provider of necessary and specific changes to individualized treatment plan tasks that require no change in total hours or service type, a copy of the amended individualized treatment plan tasks must be forwarded to the Department including rationale for those changes. The Department has ten (10) working days to respond to the changes. If no response is received, the provider may proceed to incorporate those and only those specific task changes into the individualized treatment plan. While task changes may result in reassignment of available hours among tasks, under no circumstances does this permit the provider to increase the total number of prior authorized hours.~~

~~(7-1-06)F~~

~~**08. Quality of Services.** The Department must monitor the quality and outcomes of PSR services provided to participants, in coordination with the Divisions of Medicaid, Management Services, and Family and Community Services.~~

~~(7-1-06)F~~

Subsections 129.05 and 129.08

129. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - PROVIDER RESPONSIBILITIES.

05. Individualized Treatment Plan. The provider must develop an individualized treatment plan in accordance with Section 114 of these rules. The signature of a physician, or other licensed practitioner of the healing arts within the scope of his practice under state law is required on the individualized treatment plan indicating the services are medically necessary. The date of the *initial* plan is the date it is signed by the physician *if all the required documentation is received by the Department within thirty (30) days of the date of the request for assessment hours.* Reimbursement for services will be authorized according to Subsection 128.02.b. of these rules. ~~(7-1-06)F~~(7-1-06)T

08. Healthy Connections Referral ~~Number~~. Providers must obtain a Healthy Connections referral ~~number~~ if the participant is enrolled in the Healthy Connections program. ~~(7-1-06)F~~(7-1-06)T

Subsections 130.06 and 130.09

130. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - PROVIDER AGENCY REQUIREMENTS.

Each agency that enters into a provider agreement with the Department for the provision of PSR services must meet the following requirements: (7-1-06)T

06. Supervision. The agency must provide staff with adequate supervision to insure that the tasks on a participant's individualized treatment plan can be implemented effectively in order for the individualized treatment plan objectives to be achieved. *Individuals in Subsections 131.09 through 131.12 of these rules must be supervised by individuals in Subsections 131.01 through 131.07 of these rules.* (7-1-06)T

a. Case-specific supervisory contact must be made weekly, at a minimum, with staff for whom supervision is a requirement. *Individuals in Subsections 131.09 through 131.12 of these rules must be supervised by individuals in Subsections 131.01 through 131.08 of these rules.* Documentation of supervision must be maintained by the agency and be available for review by the Department. ~~(7-1-06)F~~(7-1-06)T

b. *An agency must assure clinical supervision is available to all staff that provide psychotherapy. The amount of supervision should be adequate to ensure that the individualized treatment plan objectives are achieved. Documentation of supervision must be maintained by the agency and be available for review by the Department.* (7-1-06)T

09. Building Standards, Credentialing and Ethics. PSR Agencies must follow the rules in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections ~~715~~ 712 and 714. ~~(7-1-06)F~~(7-1-06)T

Section 140, Subsections 140.07 and 140.10

140. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - ~~PAYMENT METHODOLOGY~~ PROVIDER REIMBURSEMENT.

Payment for PSR services must be in accordance with rates established by the Department. The rate paid for services includes documentation. (7-1-06)T

07. Psychological Evaluations. Psychological evaluations are reimbursable if provided in accordance with the requirements in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections ~~710~~ 707 through ~~717~~ 718. ~~(7-1-06)F~~(7-1-06)T

10. Reimbursement for Services Provided in a School. *PSR Services provided by a PSR agency in a school-based setting, must be billed by the school district, charter school, or the Idaho Infant Toddler program.* (7-1-06)T

Section 146 - Entire Section

146. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - QUALITY OF SERVICES.

The Department must monitor the quality and outcomes of PSR services provided to participants, in coordination with the Divisions of Medicaid, Management Services, and *Family and Community Services Behavioral Health*.
(7-1-06)F(7-1-06)T

Subsection 226.02

226. NURSING FACILITY - PROCEDURAL RESPONSIBILITIES.

02. Other Financial Information for Participant. Other information about a participant's finances which may potentially affect eligibility for medical assistance must be reported if the nursing facility has any knowledge of the participant's financial information.
(7-1-06)F(7-1-06)T

Section 235 and Subsections 235.03 and 235.04

235. NURSING FACILITY - ~~PAYMENT METHODOLOGY~~ PROVIDER REIMBURSEMENT.

~~**03. Nonlegend Drugs Reimbursement.** (7-1-06)T~~

~~**a.** For providers which have no pharmacy on the premises, reimbursement will be available for nonlegend drugs subject to a test of reasonableness related to the market place and must not exceed the pharmacist's charges to private pay patients. This means that charges to the patient may not exceed the billing to the provider including adjustments by discounts or terms. (7-1-06)T~~

~~**b.** For providers who have a pharmacy on the premises, reimbursement will be available for nonlegend drugs at cost plus a dispensing fee established by the Division of Medicaid. (7-1-06)T~~

~~**04. Record Keeping Requirements for Drug Purchases.** According to the requirements in the PPM, Section 2104, the provider, as part of its financial record-keeping responsibility under the Medicaid Assistance Program must have on supplier invoices all needed cost verification information including name brand, quantity, form, and strength of the drugs supplied and the provider's actual cost. In the absence of such information and in accordance with Title XVIII of the Social Security Act, Section 1815 and 42 CFR 405.453, the Department must deny charges for unlabeled drugs because of inadequate records. Any cost reductions received on drug purchases including discounts, cash, trade, purchase, and quantity, or rebates, must also be clearly reflected on the individual invoices or related documentation. (7-1-06)T~~

Section 236

236. NURSING FACILITY - REASONABLE COST PRINCIPLES.

To be allowable, costs must be reasonable, ordinary, necessary and related to patient care. It will be expected that providers will incur costs in such a manner that economical and efficient delivery of quality health care to beneficiaries *participants* will result.
(7-1-06)F(7-1-06)T

Sections 237 Through 239

237. NURSING FACILITY - NOTICE OF PROGRAM REIMBURSEMENT.

Following receipt of the finalized Medicare Cost Report and the timely receipt of any other information requested by the Department to fairly cost settle with the provider, a certified letter with the return receipt requested will be sent to

the provider which sets forth the amounts of underpayment or overpayment made to the provider. (7-1-06)T

01. Notice. The notice of the results of the final retroactive adjustment will be sent even though the provider intends to request a hearing on the determination, or has appealed the Medicare Intermediary's determination of cost settlement. Where the determination shows that the provider is indebted to the Medicaid program because total interim and other payments exceed cost limits, the state will take the necessary action to recover overpayment, including the suspension of interim payments sixty (60) days after the provider's receipt of the notice. (7-1-06)T

02. Recovery or Suspension. Such action of recovery or suspension will continue even after a request for an informal conference or hearing is filed with the state. If the hearing results in a revised determination, appropriate adjustments will be made to the settlement amount. (7-1-06)T

03. Timing of Notice. The Department will make every effort to issue a notice of program reimbursement within twelve (12) months of receipt of the Cost Report from the Medicare Intermediary. (7-1-06)T

04. Reopening of Completed Settlements. A Medicaid completed cost settlement may be reopened by the provider or the state within a three-year (3) period from the date of the letter of notice of program reimbursement. The issues must have been raised, appealed and resolved through the reopening of the Cost Report by the Medicare Intermediary. Issues previously addressed and resolved by the Department's appeal process are not cause for reopening of the finalized cost settlement. (7-1-06)T

238. NURSING FACILITY - INTEREST CHARGES ON OVERPAYMENTS AND UNDERPAYMENTS.
The Title XIX and Title XXI programs will charge interest on overpayments, and pay interest on underpayments. (7-1-06)T

01. Interest After Sixty Days of Notice. If full repayment from the indebted party is not received within sixty (60) days after the provider has received notice of program reimbursement, interest will accrue from the date of receipt of the notice of program reimbursement, and will be charged on the unpaid settlement balance for each thirty-day (30) period that payment is delayed. Periods of less than thirty (30) days will be treated as a full thirty-day (30) period, and the thirty-day (30) interest charge will be applied to any unpaid balance. Each payment will be applied first to accrued interest, then to the principal. Interest accrued on overpayments and interest on funds borrowed by a provider to repay overpayments are not an allowable interest expense. (7-1-06)T

02. Waiver of Interest Charges. When the Department determines an overpayment exists, it may waive interest charges if it determines that the administrative costs of collecting them exceed the charges. (7-1-06)T

03. Rate of Interest. The interest rate on overpayments and underpayments will be the statutory rate as set forth in Section 28-22-104(1), Idaho Code, compounded monthly. (7-1-06)T

04. Retroactive Adjustment. The balance and interest will be retroactively adjusted to equal the amounts that would have been due based on any changes which occur as a result of the final determination in the administrative appeal and judicial appeal process. Interest penalties will only be applied to unpaid amounts and will be subordinated to final interest determinations made in the judicial review process. (7-1-06)T

239. NURSING FACILITY - RECOVERY METHODS FOR OVERPAYMENTS.
One (1) of the following methods will be used for recovery of overpayments: (7-1-06)T

01. Lump Sum Voluntary Repayment. Upon receipt of the notice of program reimbursement, the provider voluntarily refunds, in a lump sum, the entire overpayment to the Department. (7-1-06)T

02. Periodic Voluntary Repayment. The provider must request in writing that recovery of the overpayment be made over a period of twelve (12) months or less. The provider must adequately document the request by demonstrating that the financial integrity of the provider would be irreparably compromised if repayments occurred over a shorter period of time than requested. (7-1-06)T

03. Department Initiated Recovery. The Department will recover the entire unpaid balance of the

overpayment of any settlement amount in which the provider does not respond to the notice of program reimbursement within thirty (30) days of receiving the notice. (7-1-06)T

04. Recovery From Medicare Payments. The Department can request that Medicare payments be withheld in accordance with 42 CFR, Section 405.377. (7-1-06)T

~~237. — 239. (RESERVED).~~

Sections 243 and 244

~~243. — 244. (RESERVED).~~

243. NURSING FACILITY - RELATED PARTY TRANSACTIONS.

01. Principle. Costs applicable to services, facilities and supplies furnished to the provider by organizations or persons related to the provider by common ownership, control, etc., are allowable at the cost to the related party. Such costs are allowable to the extent that they relate to patient care, are reasonable, ordinary, and necessary, and are not in excess of those costs incurred by a prudent cost-conscious buyer. (7-1-06)T

02. Cost Allowability - Regulation. Allowability of costs is subject to the regulations prescribing the treatment of specific items as outlined in 42 CFR 413.17, et al, and the Providers Reimbursement Manual, PRM Chapter 10 and other applicable chapters of the PRM. (7-1-06)T

244. NURSING FACILITY - APPLICATION OF RELATED PARTY TRANSACTIONS.

01. Determination of Common Ownership or Control in the Provider Organization and Supply Organization. In determining whether a provider organization is related to a supplying organization, the tests of common ownership and control are to be applied separately. If the elements of common ownership or control are not present in both organizations, the organizations are deemed not to be related to each other. (7-1-06)T

a. A determination as to whether an individual(s) possesses ownership or equity in the provider organization and the supplying organization, so that the organizations will be considered to be related by common ownership, will be made on the basis of the facts and circumstances in each case. (7-1-06)T

b. The term “control” includes any kind of control whether or not it is legally enforceable and however it is exercisable or exercised. It is the reality of the control which is decisive, not its form or the mode of its exercise. (7-1-06)T

02. Cost to Related Organizations. The charges to the provider from related organizations may not exceed the billing to the related organization for these services. (7-1-06)T

03. Costs Not Related to Patient Care. All home office costs not related to patient care are not allowable under the program. (7-1-06)T

04. Interest Expense. Generally, interest expense on loans between related entities will not be reimbursable. See the PRM, Chapters 2, 10, and 12 for specifics. (7-1-06)T

Section 250 - Entire Section

250. NURSING FACILITY - COST LIMITS.

Sections 250 through ~~272~~ 271 of these rules, provide procedures and specifications necessary to implement the provisions and accomplish the objectives of the nursing home reimbursement system as specified in Sections 56-101 through 56-135, Idaho Code. All audits related to fiscal years ending on or before December 31, 1999 are subject to rules in effect before July 1, 1999. ~~(7-1-06)T~~(7-1-06)T

Section 272 - Entire Section

272. NURSING FACILITY - ~~DISPUTES~~ LEGAL CONSULTANT FEES AND LITIGATION COSTS.

Costs of legal consultant fees and litigation costs incurred by the provider will be handled in accordance with the following: (7-1-06)T

01. ~~Administrative Review Requirement.~~ Administrative Review Requirement. If any facility wishes to contest the way in which a rule or contract provision relating to the prospective, cost-related reimbursement system was applied to such facility by the Director, it will first pursue the administrative review process set forth in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." **In General.** Legal consultant fees unrelated to the preparation for or the taking of an appeal of an audit performed by the Department of Health and Welfare, or litigation costs incurred by the provider in an action unrelated to litigation with the Department of Health and Welfare, will be allowed as a part of the total per diem costs of which the Medicaid Program will reimburse a portion according to the percentage of Medicaid patient days. (7-1-06)F(7-1-06)T

02. ~~Legal Challenge.~~ Legal Challenge. The administrative review process need not be exhausted if a facility wishes to challenge the legal validity of a statute, rule, or contract provision. **Administrative Appeals.** In the case of the provider contesting in administrative appeal the findings of an audit performed by the Department of Health and Welfare, the costs of the provider's legal counsel will be reimbursed by the Medicaid Program only to the extent that the provider prevails on the issues involved. The determination of the extent that the provider prevails will be based on the ratio of the total dollars at issue for the audit period at issue in the hearing to the total dollars ultimately awarded to the provider for that audit period by the hearing officer or subsequent adjudicator. (7-1-06)F(7-1-06)T

03. ~~Other.~~ Other. All other litigation costs incurred by the provider in actions against the Department of Health and Welfare will not be reimbursable either directly or indirectly by the Medicaid Program except where specifically ordered by a court of law. (7-1-06)T

Section 281 - Entire Section

281. NURSING FACILITY - REPORTING SYSTEM PRINCIPLE AND APPLICATION.

The provider will be required to file mandatory annual cost reports. (7-1-06)T

01. ~~Cost Report Requirements.~~ Cost Report Requirements. The fiscal year end cost report filing must include: (7-1-06)T

a. Annual income statement (two (2) copies); (7-1-06)T

b. Balance sheet; (7-1-06)T

c. Statement of ownership; (7-1-06)T

d. Schedule of patient days; (7-1-06)T

e. Schedule of private patient charges; (7-1-06)T

f. Statement of additional charges to residents over and above usual monthly rate; and (7-1-06)T

g. Other schedules, statements, and documents as requested. (7-1-06)T

02. ~~Cost Statement Requirements.~~ Cost Statement Requirements. Quarterly and short period cost statement filings must include: (7-1-06)F

a. Filed not later than sixty (60) days after the close of the period. Reports received after this time will be accepted at the option of the Department. (7-1-06)F

b. Statement of current costs to include at least one (1) quarter (or adjusted quarter, if applicable). Statement may also be filed for any period beginning and ending with quarters of the provider's fiscal year. Other reporting period may be requested. (7-1-06)F

- ~~e.~~ *Schedule of patient days.* (7-1-06)T
- ~~d.~~ *Schedule of all patient charges.* (7-1-06)T
- ~~e.~~ *Other schedules, statements, and clarifications as requested.* (7-1-06)T
- 032.** **Special Reports.** Special reports may be required. Specific instructions will be issued, based upon the circumstance. (7-1-06)T
- 043.** **Criteria of Reports.** All reports must meet the following criteria: (7-1-06)T
- a. State approved formats must be used. (7-1-06)T
- b. Presented on accrual basis. (7-1-06)T
- c. Prepared in accordance with generally accepted accounting principles and principles of reimbursement. (7-1-06)T
- d. Appropriate detail must be provided on supporting schedules or as requested. (7-1-06)T
- 054.** **Preparer.** It is not required that any statement be prepared by an independent, licensed or certified public accountant. (7-1-06)T
- 065.** **Reporting by Chain Organizations or Related Party Providers.** PRM, Section 2141.7, prohibits the filing of combined or consolidated cost reports as a basis for cost reimbursement. Each facility so related must file a separate set of reports. These cost reports will be required for each level of organization that allocates expenses to the provider. Consolidated financial statements will be considered supplementary information and are not acceptable as fulfilling the primary reporting requirements. (7-1-06)T
- 076.** **Change of Management or Ownership.** To properly pay separate entities or individuals when a change of management or ownership occurs, the following requirements must be met: (7-1-06)T
- a. Outgoing management or administration must file an adjusted-period cost report if ~~it is necessary they are being reimbursed on a retrospective basis at the time of the charge.~~ This report must meet the criteria for annual cost reports, except that it must be filed not later than sixty (60) days after the change in management or ownership for the purpose of computing a final program settlement. (7-1-06)T(7-1-06)T
- b. The Department may require an appraisal at the time of a change in ownership. (7-1-06)T
- c. Providers who are receiving a new provider rate or being reimbursed on a prospective basis, when the change of management or ownership occurs, will not be required to file a closing cost report. (7-1-06)T

Subsection 283.01

283. NURSING FACILITY - FILING DATES.

- 01.** **Deadlines.** ~~Deadlines for filing quarterly cost statements will be sixty (60) days after the close of the quarter so reported.~~ Deadlines for annual cost reports will be the last day of the third month following the fiscal year end or the deadline imposed by Medicare if the provider is required to file a Medicare cost report. (7-1-06)T(7-1-06)T

Section 286

286. NURSING FACILITY - AUDITS.

~~The objectives of an audit are that a~~ All financial reports are subject to audit by Departmental representatives ~~as~~

described in Sections 286 through 288 of these rules.

~~(7-1-06)F~~(7-1-06)T

Subsection 292.03

292. NURSING FACILITY - PAYMENTS FOR PERIODS OF TEMPORARY ABSENCE.

Payments may be made for reserving beds in long-term care facilities for participants during their temporary absence if the facility charges private paying patients for reserve bed days, subject to the following limitations: (7-1-06)T

03. **Limits on Amount of Payments.** Payment for reserve bed days will be the *lesser of the* following: ~~(7-1-06)F~~(7-1-06)T

Section 307, Subsection 307.01

307. PERSONAL CARE SERVICES - ~~PAYMENT METHODOLOGY~~ PROVIDER REIMBURSEMENT.

01. **Reimbursement Rate.** Personal assistance providers will be paid a uniform reimbursement rate for service as established by the Department ~~pursuant on an annual basis according~~ to Section 39-5606, Idaho Code, ~~on an annual basis~~. Provider claims for payment will be submitted on claim forms provided or approved by the Department. Billing instructions will be provided by the Department. ~~(7-1-06)F~~(7-1-06)T

Section 330

330. AGED OR DISABLED WAIVER SERVICES - ~~PAYMENT METHODOLOGY~~ PROVIDER REIMBURSEMENT.

The criteria used in reimbursing providers for waiver services are listed in Subsections 330.01 through 330.03 of these rules. (7-1-06)T

Section 456

456. HOSPICE - ~~PAYMENT METHODOLOGY~~ PROVIDER REIMBURSEMENT.

With the exception of payment for physician services under Section 458 of these rules, Medicaid reimbursement for hospice care will be made at one (1) of four (4) predetermined rates for each day in which a participant receives the respective type and intensity of the services furnished under the care of the hospice. The four (4) rates are prospective rates; there will be no retroactive rate adjustments other than the application of the "cap" on overall payments and the limitation on payments for inpatient care, if applicable. A description of the payment for each level of care is described in Subsections 456.01 through 456.04 of these rules. (7-1-06)T

Subsection 503.02.a.iv.

503. DEVELOPMENTAL DISABILITY DETERMINATION - TEST INSTRUMENTS.

A variety of standardized test instruments are available. Tests used to determine a developmental disability must reflect the current functional status of the individual being evaluated. Tests over one (1) year old must be verified to reflect the current status of the individual by an appropriate professional. Instruments designed only for screening purposes must not be used to determine eligibility. (7-1-06)T

02. **Test Instruments for Children.** The assessments utilized to determine eligibility must be based on age appropriate criteria. Evaluations must be performed by qualified personnel with experience and expertise with children; selected evaluation tools and practices should be age appropriate, based on consideration of the child's language and motor skills, be racially and culturally non-discriminatory, and be conducted in settings that are

typically comfortable and familiar to the child. Unless contraindicated, test instruments such as the following must be used with children: (7-1-06)T

a. Cognitive: (7-1-06)T

iv. Wechsler Intelligence Scale for Children - Fourth Edition (WISC-IV) for ages six (6) through sixteen (16) years, eleven (11) months; or ~~(7-1-06)T~~(7-1-06)T

Subsections 508.03 through 508.25

508. BEHAVIORAL HEALTH PRIOR AUTHORIZATIONS - DEFINITIONS.

For the purposes of these rules the following terms are used as defined below. (7-1-06)T

~~03.~~ **Budget.** *The level of financial support that corresponds to a participant's assessed needs, level of support determined by the SIB-R, and the past three (3) years' expenditures, when available. Using this information, the budget is negotiated with the plan developer, the participant, and the assessor.* (7-1-06)T

~~04.~~ **Clinical Review.** A process of professional review that validates the need for continued services. (7-1-06)T

~~05.~~ **Community Crisis Support.** Intervention for participants who are at risk of losing housing, employment or income, or who are at risk of incarceration, physical harm, family altercations or other emergencies. (7-1-06)T

~~06.~~ **Concurrent Review.** A clinical review to determine the need for continued prior authorization of services. (7-1-06)T

~~07.~~ **Customer.** *Any stakeholder with the exception of the participant.* (7-1-06)T

~~08.~~ **Exception Review.** A clinical review of a plan that falls outside the established standards. (7-1-06)T

~~09.~~ **Interdisciplinary Team.** For purposes of these rules, the interdisciplinary team is a team of professionals, determined by the Department, that reviews requests for reconsideration. (7-1-06)T

~~10.~~ **Level of Support.** An assessment score derived from the SIB-R that indicates types and amounts of services and supports necessary to allow the individual to live independently and safely in the community. (7-1-06)T

~~11.~~ **Person-Centered Planning Process.** A meeting facilitated by the plan developer, comprised of family and individuals significant to the participant who collaborate with the participant to develop the plan of service. (7-1-06)T

~~12.~~ **Person-Centered Planning Team.** The group who develops the plan of service. This group includes, at a minimum, the participant and the service coordinator or plan developer chosen by the participant. The person-centered planning team may include others identified by the participant or agreed upon by the participant and the Department as important to the process. (7-1-06)T

~~13.~~ **Plan Developer.** A paid or non-paid person identified by the participant who is responsible for developing one (1) plan of service and subsequent addenda that cover all services and supports, based on a person-centered planning process. (7-1-06)T

~~14.~~ **Plan Monitor.** A person who oversees the provision of services on a paid or non-paid basis. (7-1-06)T

153. Plan Monitor Summary. A summary that provides information to evaluate plans and initiate action to resolve any concerns. The plan monitor must complete a plan monitor summary when the plan has been in effect for six (6) months and at the annual person-centered planning process. The summary is based on the provider status reviews referred to in Subsection 513.06 of these rules. The plan monitor will use the provider information to evaluate plans and initiate action to resolve any concerns. (7-1-06)T

164. Plan of Service. An initial or annual plan that identifies all services and supports based on a person-centered planning process. Plans are authorized annually every three hundred sixty-five (365) days. (7-1-06)T

175. Prior Authorization (PA). A process for determining a participant's eligibility for services and medical necessity prior to the delivery or payment of services as provided by these rules. (7-1-06)T

186. Provider Status Review. The written documentation that identifies the participant's progress toward goals defined in the plan of service. (7-1-06)T

197. Right Care. Accepted treatment for defined diagnosis, functional needs and abilities to achieve the desired outcome. The right care is consistent with best practice and continuous quality improvement. (7-1-06)T

2018. Right Place. Services delivered in the most integrated setting in which they normally occur, based on the participant's choice to promote independence. (7-1-06)T

219. Right Price. The most integrated and least expensive services that are sufficiently intensive to address the participant's needs. The amount is based on the individual's needs for services and supports as identified in the assessment. (7-1-06)T

220. Right Outcomes. Services based on assessed need that ensure the health and safety of the participant and result in progress, maintenance, or delay or prevention of regression for the participant. (7-1-06)T

231. Service Coordination. Service coordination is an activity which assists individuals eligible for Medicaid in gaining and coordinating access to necessary care and services appropriate to the needs of an individual. (7-1-06)T

242. Service Coordinator. An individual who provides service coordination to a Medicaid-eligible participant, is employed by a service coordination agency, and meets the training, experience, and other requirements under Sections ~~725~~ 729 through 732 of these rules. ~~(7-1-06)T~~(7-1-06)T

253. Services. Services paid for by the Department that enable the individual to reside safely and effectively in the community. (7-1-06)T

264. SIB-R. The Scales of Independent Behavior - Revised (SIB-R) is a standardized assessment tool evaluating functional skill levels and evaluating maladaptive behavior. The SIB-R is used by the Department to determine developmental disability eligibility, waiver eligibility, skill level to identify the participant's needs for the plan of service, and for determining the participant budget. ~~(7-1-06)T~~(7-1-06)T

275. Supports. Formal or informal services and activities, not paid for by the Department, that enable the individual to reside safely and effectively in the setting of his choice. (7-1-06)T

Section 509 and Subsection 509.04

509. INDIVIDUALS WITH A DEVELOPMENTAL DISABILITY BEHAVIORAL HEALTH PRIOR AUTHORIZATION - ELIGIBILITY DETERMINATION.

The Department will make the final determination of an individual's eligibility, based upon the assessments and evaluations administered by the Department. Initial and annual assessments must be performed by the Department. The purpose of the assessment is to determine a participant's eligibility for developmental disabilities services in accordance with Section 66-402, Idaho Code, and Sections 500 through 506 of these rules and for ICF/MR level of care for waiver services in accordance with Section ~~583~~ 584 of these rules. ~~(7-1-06)T~~(7-1-06)T

04. ICF/MR Level of Care Determination for Waiver Services. The assessor will determine ICF/MR level of care for adults in accordance with Section ~~583~~ 584 of these rules. ~~(7-1-06)F(7-1-06)T~~

Subsections 513.01, 513.02, 513.06, and 513.14.a.

513. BEHAVIOR HEALTH PRIOR AUTHORIZATION - PLAN OF SERVICE.

In collaboration with the participant, the Department must assure that the participant has one (1) plan of service. This plan of service is based on the individualized participant budget referred to in Section 514 of these rules and must identify all services and supports. Participants may develop their own plan or designate a paid or non-paid plan developer. In developing the plan of service, the plan developer and the participant must identify services and supports available outside of Medicaid-funded services that can help the participant meet desired goals. Authorized services must be delivered by providers who are selected by the participant. (7-1-06)T

01. Qualifications of a Paid Plan Developer. Neither a provider of direct service to the participant nor the assessor may be chosen to be the paid plan developer. Family members and all others who wish to be paid for plan development must be employed as a service coordinator as defined in Sections 729 through 732 of these rules. ~~(7-1-06)F(7-1-06)T~~

02. Plan Development. The plan must be developed with the participant. With the participant's consent, the person-centered planning team may include family members, guardian, or individuals who are significant to the participant. In developing the plan of service, the plan developer and participant must identify any services and supports available outside of Medicaid-funded services that can help the participant meet desired goals. The plan of service must be submitted within ~~thirty~~ forty-five (3045) days prior to the expiration of the existing plan of service unless delayed because of participant unavailability due to extenuating circumstances. If the plan is not submitted within this time period, authorization for provider payments may be terminated. ~~(7-1-06)F(7-1-06)T~~

06. Provider Status Reviews. Service providers, with exceptions identified in ~~Subsection 341~~ 513.11 of these rules, must report the participant's progress toward goals to the plan monitor on the provider status review when the plan has been in effect for six (6) months and at the annual person-centered planning meeting. The semi-annual and annual reviews must include: ~~(7-1-06)F(7-1-06)T~~

09. Negotiation for the Plan of Service. The plan of service must be individualized with the participant if the requested services fall outside the ~~negotiated~~ individualized budget or do not reflect the assessed needs. When the plan of service cannot be negotiated by the assessor, the plan developer, and the participant, it will be referred by the assessor to the Department's care manager for additional evaluation. Services will not be paid for unless they are authorized on the plan of service. ~~(7-1-06)F(7-1-06)T~~

14. Annual Reauthorization of Services. A participant's plan of service must be reauthorized annually. The Department must review and authorize the new plan of service prior to the expiration of the current plan. (7-1-06)T

a. Plan Developer Responsibilities for Annual Reauthorization. A new plan of service must be provided to the Department by the plan developer at least ~~thirty~~ forty-five (3045) days prior to the expiration date of the current plan. Prior to this, the plan developer must: ~~(7-1-06)F(7-1-06)T~~

Section 514, Subsections 514.04, and 514.04.c.

514. BEHAVIORAL HEALTH PRIOR AUTHORIZATION - ~~PAYMENT METHODOLOGY PROVIDER REIMBURSEMENT.~~

Providers are reimbursed on a fee for service basis based on a participant budget.

(7-1-06)T

04. Residential Habilitation - Supported Living Acuity-Based Levels of Support. Reimbursement for residential habilitation - supported living is based on the participant's assessed level of support need. All plans of service that include supported living must include community integration goals that provide for maintained or enhanced independence, quality of life, and self-determination. ~~As these outcomes are met, participants must transition to less intense supports. Residential habilitation - supported living is available at the following levels: As a participant's independence increases and he is less dependent on supports, he must transition to less intense supports.~~

~~(7-1-06)T(7-1-06)T~~

c. Hourly support is for those individuals that do not meet criteria for either high or intense supports or those individuals who qualify for a daily rate but whose needs can be met with less than twenty-four (24) per day support. The combination of hourly supported living, developmental therapy, community supported employment, and adult day care will not be authorized to exceed ~~more than one hundred and ninety dollars (\$190) per day the maximum set daily amount established by the Department~~ except when all of the following conditions are met:

~~(7-1-06)T(7-1-06)T~~

Section 581 - Entire Section

581. ~~(RESERVED)~~ ICF/MR - ELIGIBILITY.

~~Entitlement to medical assistance participation in the cost of long-term care exists when the individual is eligible for medical assistance and the Regional Nurse Reviewer (RNR) has determined that the individual meets the criteria for ICF/MR services. Entitlement must be determined prior to authorization of payment for such care for an individual who is either a participant of or an applicant for medical assistance.~~

~~(7-1-06)T~~

Section 582 - Entire Section

582. ICF/MR - DETERMINATION OF ENTITLEMENT FOR MEDICAID PAYMENT.

Applications for Medicaid payment of an individual with mental retardation, or related condition, in an ICF/MR will be through the Department's RMS staff. All required information necessary for a medical entitlement determination, ~~including DDC's recommendation for placement and services,~~ must be submitted to the Regional Medicaid Services before a determination and approval for payment is made. The effective date of Medicaid payment will be no earlier than the physician's signed and dated certification for ICF/MR level of care.

~~(7-1-06)T(7-1-06)T~~

Section 584, Subsections 584.03, 584.07, and 584.09

584. ICF/MR - CRITERIA FOR DETERMINING ELIGIBILITY.

Individuals who have mental retardation or a related condition as defined in Section 66-402, Idaho Code and Sections 500 through 503 of these rules, must be determined by an interdisciplinary team to need the consistent, intense, frequent services including active treatment provided in an ICF/MR or receive services under one of Idaho's programs to assist individuals with mental retardation or a related condition to avoid institutionalization in an ICF/MR, as indicated in Section 584.02 of these rules. To meet Title XIX and Title XXI entitlement for ICF/MR level of care and be eligible for services provided in an ICF/MR. The following must be met in Subsections 584.01 through 584.08 of these rules.

~~(7-1-06)T(7-1-06)T~~

03. Must Require Certain Level of Care. Persons living in the community must require the level of care provided in an ICF/MR, including active treatment, and in the absence of available intensive alternative services in the community, would require institutionalization, other than services in an institution for mental disease, in the near future.

~~(7-1-06)T(7-1-06)T~~

07. Combination Functional and Maladaptive Behaviors. Persons may qualify for ICF/MR level of care if they display a combination of ~~Criterion 1 and 2~~ *criteria as described in Subsections 585.05 and 585.06 of these rules* at a level that is significant and it can be determined they are in need of the level of services provided in an ICF/MR, including active treatment services. Significance would be defined as: ~~(7-1-06)T~~(7-1-06)T

09. Annual Redetermination for ICF/MR Level of Care for Community Services. *The RMS staff must redetermine the participant's continuing need for ICF/MR level of care for community services. Documentation will consist of the completion of a redetermination statement on the "Level of Care" form HW0083. Such documentation will be accomplished no later than every three hundred sixty-five (365) days from the most recent determination.* (7-1-06)T

a. Home Care for Certain Disabled Children (HCDC). *Persons receiving HCDC Medicaid services through ICF/MR eligibility, will receive services until the end of the month in which the redetermination was made. These individuals must receive ten (10) days notification of termination of services. If the redetermination is made less than ten (10) days from the end of the month, payment continues until the end of the following month.* (7-1-06)T

b. Developmentally Disabled Waiver. *Individuals receiving developmentally disabled waiver services will have thirty (30) days from the time of the determination to transition to other community supports.* (7-1-06)T

Subsections 586.05 through 586.10

586. ICF/MR - PROCEDURAL RESPONSIBILITIES.

Each long term care facility administrator, or his authorized representative, must report to the appropriate Field Office within three (3) working days of the date the facility has knowledge of the following. (7-1-06)T

~~**05. Annual Redetermination for ICF/MR Level of Care.** *The RMS staff must re-determine the participant's continuing need for ICF/MR level of care for community services. Documentation will consist of the completion of a redetermination statement on the "Level of Care" form HW0083. Such documentation will be accomplished no later than every three hundred sixty-five (365) days from the most recent determination.* (7-1-06)T~~

~~**a. Transitioning to a Less Restrictive Environment.** *Persons living in an ICF/MR will be transitioned to a less restrictive environment within thirty (30) days of the determination that the participant does not meet ICF/MR level of care.* (7-1-06)T~~

~~**b. Home Care for Certain Disabled Children (HCDC).** *Persons receiving HCDC Medicaid services through ICF/MR eligibility, will receive services until the end of the month in which the redetermination was made. These individuals must receive ten (10) days notification of termination of services. If the redetermination is made less than ten (10) days from the end of the month, payment continues until the end of the following month.* (7-1-06)T~~

~~**c. Developmentally Disabled Waiver.** *Individuals receiving Developmentally Disabled waiver services will have thirty (30) days from the time of the determination to transition to other community supports.* (7-1-06)T~~

065. Annual Recertification Requirement. It is the responsibility of the ICF/MR to assure that the recertification is accomplished by the physician, physician's assistant or nurse practitioner no later than every three hundred sixty-five (365) days. (7-1-06)T

a. Should the Medicaid Program receive a financial penalty from the Department of Health and Human Services due to the lack of appropriate recertification on the part of an ICF/MR, then such amount of money will be withheld from facility payments for services provided to Medicaid participants. For audit purposes, such financial losses are not reimbursable as a reasonable cost of participant care. Such losses cannot be made the financial

responsibility of the Department's participant.

~~(7-1-06)T~~(7-1-06)T

b. *Persons living in an ICF/MR will be transitioned to a less restrictive environment within thirty (30) days of the determination that the participant does not meet ICF/MR level of care.* (7-1-06)T

076. Level of Care Change. If during an on-site review of a resident's medical record and an interview with or observation of the resident an IOC/UC reviewer determines there is a change in the resident's status and the resident no longer meets criteria for ICF/MR care, the tentative decision is: (7-1-06)T

a. Discussed with the facility administrator or the director of nursing services; (7-1-06)T

b. The resident's physician is notified of the tentative decision; (7-1-06)T

c. The case is submitted to the Regional Review Committee for a final decision; and (7-1-06)T

d. The effective date of loss of payment will be no earlier than ten (10) days following the date of mailing of notice to the participant by the Eligibility Examiner. (7-1-06)T

087. Appeal of Determinations. The resident or his representative may appeal the decisions under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (7-1-06)T

098. Supplemental On-Site Visit. The Regional Nurse Reviewer may conduct utilization control supplemental on-site visits in an ICF/MR when indicated. Some indications may be: (7-1-06)T

a. Follow-up activities; (7-1-06)T

b. A verification of a participant's appropriateness of placement or services; and (7-1-06)T

c. Conduct complaint investigations at the Department's request. (7-1-06)T

402. Determination of Entitlement to Long-Term Care. Entitlement to medical assistance participation in the cost of long-term care exists when the individual is eligible for medical assistance and the Regional Nurse Reviewer has determined that the individual meets the criteria for ICF/MR care and services. Entitlement must be determined prior to authorization of payment for such care for an individual who is either a participant of or an applicant for medical assistance. (7-1-06)T

a. The criteria for determining a Participant's need for intermediate care for the mentally retarded is described in Sections 583 and 584 of these rules. In addition, the IOC/UC nurse must determine whether a Participant's needs could be met by non-participant inpatient alternatives including, but not limited to, remaining in an independent living arrangement or residing in a room and board situation. (7-1-06)T

b. The participant can select any certified facility to provide the care required. (7-1-06)T

c. The final decision as to the level of care required by a Participant must be made by the IOC/UC Nurse. (7-1-06)T

d. The final decision as to the need for DD or MI active treatment must be made by the appropriate Department staff as a result of the Level II screening process. (7-1-06)T

e. No payment must be made by the Department on behalf of any eligible Participant to any long-term care facility which, in the judgment of the Inspection Of Care/Utilization Control Team is admitting individuals for care or services which are beyond the facility's licensed level of care or capability. (7-1-06)T

140. Authorization of Long-Term Care Payment. If it has been determined that a person eligible for medical assistance is entitled to medical assistance participation in the cost of long-term care, and that the facility selected by the participant is licensed and certified to provide the level of care the participant requires, the Field Office will forward to such facility an "Authorization for Long-Term Care Payment" form HW 0459. (7-1-06)T

Subsection 587.02.a.

587. ICF/MR - PROVIDER QUALIFICATIONS AND DUTIES.

02. Licensure and Certification. (7-1-06)T

a. Upon receipt of an application from a facility, the Licensing and Certification Agency must conduct a survey to determine the facility's compliance with certification standards for the type of care the facility proposes to provide to participants. ~~(7-1-06)T~~(7-1-06)T

Section 588 - Entire Section

588. ICF/MR - ~~PAYMENT METHODOLOGY~~ PROVIDER REIMBURSEMENT.

01. Payment Methodology. ICF/MR facilities will be reimbursed in accordance with the methodology listed in Sections 588 through 633 of these rules. (7-1-06)T

02. ~~Nonlegend Drugs Reimbursement.~~ Date of Discharge. Payment by the Department for the cost of ICF/MR care is to include the date of the participant's discharge only if the discharge occurred after 3 p.m. and is not discharged to a related provider. If a Medicaid patient dies in an ICF/MR, his date of death is covered regardless of the time of occurrence. If an admission and a discharge occur on the same date, then one (1) day of care will be deemed to exist. ~~(7-1-06)T~~(7-1-06)T

~~a. For providers which have no pharmacy on the premises, reimbursement will be available for nonlegend drugs subject to a test of reasonableness related to the market place and must not exceed the pharmacist's charges to private pay patients. This means that charges to the patient may not exceed the billing to the provider including adjustments by discounts or terms. (7-1-06)T~~

~~b. For providers who have a pharmacy on the premises, reimbursement will be available for nonlegend drugs at cost plus a dispensing fee established by the Division of Medicaid. (7-1-06)T~~

03. ~~Record Keeping Requirements for Drug Purchases.~~ According to the requirements in the Provider Reimbursement Manual (PRM), Section 2104, the provider, as part of its financial record keeping responsibility under the Medicaid Assistance Program must have on supplier invoices all needed cost verification information including name brand, quantity, form, and strength of the drugs supplied and the provider's actual cost. In the absence of such information and in accordance with Title XVIII of the Social Security Act, Section 1815 and 42 CFR 405.453, the Department must deny charges for unlabeled drugs because of inadequate records. Any cost reductions received on drug purchases including discounts, cash, trade, purchase, and quantity, or rebates, must also be clearly reflected on the individual invoices or related documentation. ~~(7-1-06)T~~

Subsection 590.19

590. ICF/MR - ALLOWABLE COSTS.

The following definitions and explanations apply to allowable costs: (7-1-06)T

19. Property Costs. Property costs related to patient care are allowable subject to other provisions of this chapter. Property taxes and reasonable property insurance are allowable for all facilities. For ~~free-standing nursing facilities and~~ ICFs/MR, the property rental rate is paid as described in Section 630 of these rules. ~~Hospital-based nursing facilities are paid based on property costs.~~ ~~(7-1-06)T~~(7-1-06)T

Sections 593 and 594

~~593. — 594. (RESERVED).~~

593. ICF/MR - RELATED PARTY TRANSACTIONS.

01. Principle. *Costs applicable to services, facilities and supplies furnished to the provider by organizations or persons related to the provider by common ownership, control, etc., are allowable at the cost to the related party. Such costs are allowable to the extent that they relate to patient care, are reasonable, ordinary, and necessary, and are not in excess of those costs incurred by a prudent cost-conscious buyer.* (7-1-06)T

02. Cost Allowability - Regulation. *Allowability of costs is subject to the regulations prescribing the treatment of specific items as outlined in 42 CFR 413.17, et al, and the Providers Reimbursement Manual, PRM Chapter 10 and other applicable chapters of the PRM.* (7-1-06)T

594. ICF/MR - APPLICATION OF RELATED PARTY TRANSACTIONS.

01. Determination of Common Ownership or Control in the Provider Organization and Supply Organization. *In determining whether a provider organization is related to a supplying organization, the tests of common ownership and control are to be applied separately. If the elements of common ownership or control are not present in both organizations, the organizations are deemed not to be related to each other.* (7-1-06)T

a. *A determination as to whether an individual(s) possesses ownership or equity in the provider organization and the supplying organization, so that the organizations will be considered to be related by common ownership, will be made on the basis of the facts and circumstances in each case.* (7-1-06)T

b. *The term “control” includes any kind of control whether or not it is legally enforceable and however it is exercisable or exercised. It is the reality of the control which is decisive, not its form or the mode of its exercise.* (7-1-06)T

02. Cost to Related Organizations. *The charges to the provider from related organizations may not exceed the billing to the related organization for these services.* (7-1-06)T

03. Costs Not Related to Patient Care. *All home office costs not related to patient care are not allowable under the program.* (7-1-06)T

04. Interest Expense. *Generally, interest expense on loans between related entities will not be reimbursable. See the PRM, Chapters 2, 10, and 12 for specifics.* (7-1-06)T

Subsection 597.01

597. ICF/MR - IDAHO OWNER-ADMINISTRATIVE COMPENSATION.

Allowable compensation to owners and persons related to owners who provide any administrative services will be limited based on the schedule in this section. (7-1-06)T

01. Allowable Owner Administrative Compensation. The following schedule will be used in determining the maximum amount of owner administrative compensation allowable for the calendar year ending December 31, ~~1996~~ 2002.

Licensed Bed Range	Upper limit
51 - 100	86,951
101 - 150	95,641

Licensed Bed Range	Upper limit
151 - 250	129,878
251 - up	186,435

~~(7-1-06)F(7-1-06)T~~

Subsection 600.01

600. ICF/MR - OCCUPANCY ADJUSTMENT FACTOR.

In order to equitably allocate fixed costs to the Medicaid patients in cases where a facility is not maintaining reasonable occupancy levels, an adjustment will be made. No occupancy adjustment will be made against the costs that are used to calculate the property rental rate; however adjustment will be made against all other property costs. The adjustment will be made as follows: (7-1-06)T

01. Occupancy Levels. If a facility maintains an average occupancy of less than eighty percent (80%) of a facility's capacity, the total property costs not including cost paid under the property rental rate, will be prorated based upon an eighty percent (80%) occupancy rate. Property costs and property rental rates are defined in Section ~~004 013~~ of these rules. The facility's average occupancy percentage will be subtracted from eighty percent (80%) and the resultant percentage will be taken times the total fixed costs to determine the nonallowable fixed costs. (7-1-06)F(7-1-06)T

Subsections 603.02 through 603.07

603. ICF/MR - REPORTING SYSTEM PRINCIPLE AND APPLICATION.

The provider will be required to file mandatory annual cost reports. (7-1-06)T

~~02. Cost Statement Requirements. Quarterly and short period cost statement filings must include:~~ (7-1-06)F

~~a. Filed not later than sixty (60) days after the close of the period. Reports received after this time will be accepted at the option of the Department.~~ (7-1-06)F

~~b. Statement of current costs to include at least one (1) quarter (or adjusted quarter, if applicable). Statement may also be filed for any period beginning and ending with quarters of the provider's fiscal year. Other reporting period may be requested.~~ (7-1-06)F

~~c. Schedule of patient days.~~ (7-1-06)F

~~d. Schedule of all patient charges.~~ (7-1-06)F

~~e. Other schedules, statements, and clarifications as requested.~~ (7-1-06)F

~~032.~~ **Special Reports.** Special reports may be required. Specific instructions will be issued, based upon the circumstance. (7-1-06)T

~~043.~~ **Criteria of Reports.** All reports must meet the following criteria: (7-1-06)T

a. State approved formats must be used. (7-1-06)T

b. Presented on accrual basis. (7-1-06)T

c. Prepared in accordance with generally accepted accounting principles and principles of

reimbursement. (7-1-06)T

d. Appropriate detail must be provided on supporting schedules or as requested. (7-1-06)T

~~054.~~ **Preparer.** It is not required that any statement be prepared by an independent, licensed or certified public accountant. (7-1-06)T

065. Reporting by Chain Organizations or Related Party Providers. PRM, Section 2141.7, prohibits the filing of combined or consolidated cost reports as a basis for cost reimbursement. Each facility so related must file a separate set of reports. These cost reports will be required for each level of organization that allocates expenses to the provider. Consolidated financial statements will be considered supplementary information and are not acceptable as fulfilling the primary reporting requirements. (7-1-06)T

076. Change of Management or Ownership. To properly pay separate entities or individuals when a change of management or ownership occurs, the following requirements will be met: (7-1-06)T

a. Outgoing management or administration will file an adjusted-period cost report if it is necessary. This report will meet the criteria for annual cost reports, except that it will be filed not later than sixty (60) days after the change in management or ownership. (7-1-06)T

b. The Department may require an appraisal at the time of a change in ownership. (7-1-06)T

~~087.~~ **Reporting Period.** When required for establishing rates, new ICF/MR providers will be required to submit cost projections for the first year of operations. ~~For the remainder of their first year of operations they will be required to file three (3) quarterly costs statements, including one (1) adjusted quarter report (if applicable), before the annual reporting option may be exercised. If a provider enters the program at some point in mid-quarter, his first quarter reporting dates will be adjusted to reflect not less than two (2) months operation nor more than four (4).~~ Thereafter, the normal reporting period ~~would apply~~ coincides with the provider's standard fiscal year. If a provider withdraws from the program and subsequently re-enters, the new provider reporting requirements will apply. ~~(7-1-06)T~~(7-1-06)T

Subsection 605.01

605. ICF/MR - FILING DATES.

01. Deadlines. ~~Deadlines for filing quarterly cost statements will be sixty (60) days after the close of the quarter so reported.~~ Deadlines for annual cost reports will be the last day of the third month following the fiscal year end or the deadline imposed by Medicare if the provider is required to file a Medicare cost report. ~~(7-1-06)T~~(7-1-06)T

Section 610

610. ICF/MR - AUDITS.

~~The objectives of an audit are that~~ All financial reports are subject to audit by Departmental representatives ~~as described in Sections 610 through 612 of these rules.~~ ~~(7-1-06)T~~(7-1-06)T

Subsections 612.04.a. and 612.04.f.

612. ICF/MR - AUDIT STANDARDS AND REQUIREMENTS.

04. Adequate Documentation. (7-1-06)T

a. Adequate cost information as developed by the provider must be current, accurate, and in sufficient detail to support payment made for services rendered to ~~beneficiaries~~ participants. This includes all ledgers, books, records and original evidences of cost including purchase requisitions, purchase orders, vouchers, requisitions for material, inventories, labor time cards, payrolls, bases for apportioning costs, and other documentation which pertains to the determination of reasonable cost, capable of being audited under PRM, Section 2304. ~~(7-1-06)T~~(7-1-06)T

f. The depreciable life of any asset may not be shorter than the useful life stated in the publication, Estimated Useful Lives of Depreciable Hospital Assets, ~~1993~~ 2004 revised edition. Guidelines Lives, which is hereby incorporated by reference into these rules. Deviation from these guidelines will be allowable only upon authorization from the Department. This document may be obtained from American Hospital Publishing, Inc., 211 E. Chicago Ave., Chicago, IL. 60611. ~~(7-1-06)T~~(7-1-06)T

Subsections 624.07.e. and 642.07.f.

624. ICF/MR - CAPPED COST.

Beginning October 1, 1996, this cost area includes all allowable costs except those specifically identified as property costs in Section 623 of these rules and exempt costs or excluded costs in Section 627 or 628 of these rules. This Section defines items and procedures to be followed in determining allowable and exempt costs and provides the procedures for extracting cost data from historical cost reports, applying a cost forecasting market basket to project cost forward, procedures to be followed to project costs forward, and procedures for computing the median of the range of costs and the ICF/MR cap. (7-1-06)T

07. Cost Ranking. Prior to October 1st of each year the Director will determine the that percent above the median which will assure aggregate payments to ICF/MR providers will approximate but not exceed amounts that would be incurred using Medicare cost principles of reimbursement. That percentage will apply to caps and rates set after September 30th of each year. Projected per diem costs as determined in this section and subject to the cap will be ranked from the highest to the lowest. The cap will be set at a percent of the bed-weighted median for each rate period. The initial cap will be set as of October 1, 1996. (7-1-06)T

e. A new cap and rate will be set on an annual basis for each facility's ~~fiscal year after September 30, 1996~~ the first of July every year. ~~(7-1-06)T~~(7-1-06)T

f. The cap and prospective rate will be determined and set on an annual basis for each facility's ~~upcoming fiscal year prior to that year and it~~ July first of every year and will not be changed by any subsequent events or information with the exception that if the computations were found to contain mathematical or clerical errors, these errors will be corrected and the cap will be adjusted using the corrected figures. ~~(7-1-06)T~~(7-1-06)T

Section 629 - Entire Section

629. ~~(RESERVED)~~ ICF/MR - LEGAL CONSULTANT FEES AND LITIGATION COSTS.

Costs of legal consultant fees and litigation costs incurred by the provider will be handled in accordance with the following: (7-1-06)T

01. In General. Legal consultant fees unrelated to the preparation for or the taking of an appeal of an audit performed by the Department of Health and Welfare, or litigation costs incurred by the provider in an action unrelated to litigation with the Department of Health and Welfare, will be allowed as a part of the total per diem costs of which the Medicaid Program will reimburse a portion according to the percentage of Medicaid patient days. (7-1-06)T

02. Administrative Appeals. In the case of the provider contesting in administrative appeal the findings of an audit performed by the Department of Health and Welfare, the costs of the provider's legal counsel will be reimbursed by the Medicaid Program only to the extent that the provider prevails on the issues involved. The determination of the extent that the provider prevails will be based on the ratio of the total dollars at issue for the

audit period at issue in the hearing to the total dollars ultimately awarded to the provider for that audit period by the hearing officer or subsequent adjudicator. (7-1-06)T

03. Other: All other litigation costs incurred by the provider in actions against the Department of Health and Welfare will not be reimbursable either directly or indirectly by the Medicaid Program except where specifically ordered by a court of law. (7-1-06)T

Section 630, Subsections 630.01.c., 630.01.d., 630.01e.v., 630.02, and 630.03

630. ICF/MR - PROPERTY RENTAL RATE REIMBURSEMENT.

ICFs/MR will be paid a property rental rate. Property taxes, ~~and~~ property insurance, and depreciation expense or major moveable equipment will be reimbursed as costs exempt from limitations. The property rental rate includes does not include compensation for ~~major movable equipment but not for~~ minor movable equipment. ~~However, the property rental rate for ICF/MR will not include compensation for major movable equipment.~~ The property rental rate is paid in lieu of payment for amortization, depreciation, and interest for financing the cost of land and depreciable assets. See Sections 56-108 and 56-109, Idaho Code, for further clarification. (7-1-06)F(7-1-06)T

01. Property Rental Rate. The property rental rate is based upon current construction costs, the age of the facility, the type of facility, and major expenditures made to improve the facility, or a rate based upon property costs as of January 1, 1985. The amount paid for each Medicaid day of care will be phased in according to the following: (7-1-06)T

a. $R = \text{"Property Base"} \times 40 - \text{"Age"} / 40 \times \text{"change in building costs"}$ where: (7-1-06)T

b. "R" = the property rental rate. (7-1-06)T

c. "Property Base" = ~~thirteen dollars and nineteen cents (\$13.19) beginning October 1, 1996 for all freestanding nursing facilities but not ICF/MR facilities. Beginning October 1, 1996, the property base rate for ICF/MR living units will be~~ eleven dollars and twenty-two cents (\$11.22) except for ICF/MR living units not able to accommodate residents requiring wheelchairs beginning October 1, 1996. Property base = seven dollars and twenty-two cents (\$7.22) for ICF/ MR living units not able to accommodate residents requiring wheelchairs. (7-1-06)F(7-1-06)T

d. "Change in building costs" = 1.0 from October 1, 1996, through December 31, 1996. ~~Beginning January 1, 1997, "change in building costs" will be adjusted each calendar year to reflect the reported annual change in the building cost index for a class D building in the western region, as published by the Marshall Swift Valuation Service or the consumer price index for renter's costs whichever is greater. For freestanding nursing facilities, the index available in September of the prior year will be used;~~ For ICF/MR facilities, the most recent index available when it is first necessary to set a prospective rate for a period that includes all or part of the calendar year, will be used. (7-1-06)F(7-1-06)T

e. "Age" of facility - The effective age of the facility in years will be set by subtracting the year in which the facility, or portion thereof, was constructed from the year in which the rate is to be applied. No facility or portion thereof will be assigned an age of more than thirty (30) years, however: (7-1-06)T

v. Effective October 1, 1996, for ICF/ MR facilities, "age of facility" will be a revised age which is the lesser of the age established under other provisions of this Section or the age which most closely yields the rate allowable to existing facilities as of ~~June 30, 1991~~ September 30, 1996, under Subsection 630.01 of these rules. This revised age will not increase over time. (7-1-06)F(7-1-06)T

02. Sale of a Facility. In the event of the sale of a facility, or asset of a facility, the buyer will receive the property rental rate of Subsection 630.01 of these rules, ~~except in the event of a forced sale or except in the event of a first sale of a facility receiving a "grandfathered rate" after June 30, 1991, whereupon the property rental rate of the new owner will be computed as if no sale had taken place.~~ (7-1-06)F(7-1-06)T

~~03. **Forced Sale of a Facility.** In the event of a forced sale of a facility, or asset of a facility, where the seller has been receiving a grandfathered rate, the buyer will receive a rate based upon his incurred property costs, exclusive of taxes and insurance, for the twelve (12) months following the sale, divided by the facility's total participant days for that period, or the property rental rate, whichever is higher, but not exceeding the rate that would be due the seller. (7-1-06)T~~

Section 631

631. ICF/MR - PROPERTY REIMBURSEMENT LIMITATIONS.

Beginning October 1, 1996, property costs of an ICF/MR will be reimbursed in accordance with ~~Subsection 587.15 630~~ of these rules except as follows: (7-1-06)T(7-1-06)T

Subsection 653.05.e.

653. DDA SERVICES - COVERAGE REQUIREMENTS AND LIMITATIONS.

05. **Limitations on DDA Services.** Therapy services may not exceed the limitations as specified below. (7-1-06)T

e. *Prior to delivering any services in a school-based setting, the DDA must have a contract with the school or the Infant Toddler program. The DDA must not bill Medicaid or the Medicaid participant for these contracted services. Only the school district, charter school, or the Idaho Infant Toddler program may bill Medicaid for these contracted services when provided in accordance with IDAPA 16.03.09 "Medicaid Basic Plan Benefits," Sections 850 through 856.* (7-1-06)T

Section 656 - Entire Section

656. DDA SERVICES - ~~PAYMENT METHODOLOGY~~ **PROVIDER REIMBURSEMENT.**

Payment for agency services must be in accordance with rates established by the Department. (7-1-06)T

Subsection 705.01

705. DD/ISSH WAIVER SERVICES - PROVIDER QUALIFICATIONS AND DUTIES.

All providers of waiver services must have a valid provider agreement with the Department. Performance under this agreement will be monitored by the Department. (7-1-06)T

01. **Residential Habilitation.** Residential habilitation services must be provided by an agency that is certified by the Department as a Residential Habilitation Agency under IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies," and is capable of supervising the direct services provided. Individuals who provide residential habilitation services in their own home must be certified by the Department as a certified family home and must be affiliated with a Residential Habilitation Agency. The Residential Habilitation Agency provides oversight, training, and quality assurance to the certified family home provider. Individuals who provide residential habilitation services in the home of the participant (supported living), must be employed by a Residential Habilitation Agency. Providers of residential habilitation services must meet the following requirements: (7-1-06)T

- a. Direct service staff must meet the following minimum qualifications: (7-1-06)T
 - i. Be at least eighteen (18) years of age; (7-1-06)T

- ii. Be a high school graduate or have a GED or demonstrate the ability to provide services according to an plan of service; (7-1-06)T
- iii. Have current CPR and First Aid certifications; (7-1-06)T
- ~~iv. Be free from communicable diseases; (7-1-06)T~~ (7-1-06)T
- v. Each staff person assisting with participant medications must successfully complete and follow the "Assistance with Medications" course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing or other Department-approved training. Staff previously trained on assistance with medications by a licensed nurse but who have not completed this course must meet this requirement by July 1, 2007. (7-1-06)T
- ~~vi. Satisfactorily complete a criminal background check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." When residential habilitation services are provided in a certified family home, all individuals eighteen (18) years of age or older living in the home must satisfactorily complete a criminal history check in accordance with IDAPA 16.05.06;~~ (7-1-06)T (7-1-06)T
- ~~v. Participate in an orientation program, including the purpose and philosophy of services, service rules, policies and procedures, proper conduct in relating to waiver participants, and handling of confidential and emergency situations that involve the waiver participant, provided by an agency prior to performing services; and~~ (7-1-06)T
- vii. Have appropriate certification or licensure if required to perform tasks which require certification or licensure. (7-1-06)T
- b. All skill training for direct service staff must be provided by a Qualified Mental Retardation Professional (QMRP) who has demonstrated experience in writing skill training programs. (7-1-06)T
- c. Prior to delivering services to a participant, direct service staff must complete an orientation program. The orientation program must include the following subjects: (7-1-06)T
 - i. Purpose and philosophy of services; (7-1-06)T
 - ii. Service rules; (7-1-06)T
 - iii. Policies and procedures; (7-1-06)T
 - iv. Proper conduct in relating to waiver participants; (7-1-06)T
 - v. Handling of confidential and emergency situations that involve the waiver participant; (7-1-06)T
 - vi. Participant rights; (7-1-06)T
 - vii. Methods of supervising participants; (7-1-06)T
 - viii. Working with individuals with developmental disabilities; and (7-1-06)T
 - ix. Training specific to the needs of the participant. (7-1-06)T
- ~~bd. The provider agency will be responsible for providing training specific to the needs of the participant. Skill training must be provided by a Qualified Mental Retardation Professional (QMRP) who has demonstrated experience in writing skill training programs. Additional training requirements must be completed within six (6) months of employment or affiliation with the residential habilitation agency and~~ include at a minimum: (7-1-06)T (7-1-06)T
 - i. Instructional ~~technology~~ techniques: Methodologies for training in a systematic and effective

- manner;* (7-1-06)F(7-1-06)T
- ii. Managing behaviors: ~~technology~~ Techniques and strategies for teaching adaptive behaviors; (7-1-06)F(7-1-06)T
 - iii. Feeding; (7-1-06)T
 - iv. Communication/~~sign language~~; (7-1-06)F(7-1-06)T
 - v. Mobility; (7-1-06)T
 - ~~vi. Assistance with medications (training in assistance with medications must be provided by a licensed nurse);~~ (7-1-06)F
 - vi. Activities of daily living; (7-1-06)T
 - vii. Body mechanics and lifting techniques; (7-1-06)T
 - ~~viii.~~ Housekeeping techniques; and (7-1-06)T
 - ix. Maintenance of a clean, safe, and healthy environment. (7-1-06)T
- e. The provider agency will be responsible for providing on-going training specific to the needs of the participant as needed. (7-1-06)T
- ef. When residential habilitation services are provided in the provider's home, the provider's home must meet the requirements in IDAPA 16.03.19, "Rules Governing Certified Family Homes." Non-compliance with the certification process is cause for termination of the provider's provider agreement. (7-1-06)T

Section 706

706. DD/ISSH WAIVER SERVICES - ~~PAYMENT METHODOLOGY~~ PROVIDER REIMBURSEMENT.

Section 726 - Entire Section

726. SERVICE COORDINATION - ELIGIBILITY - CHILDREN UP TO THE AGE OF TWENTY-ONE.

To be eligible for service coordination under the Early and Periodic Screening Diagnosis and Treatment program (EPSDT), children must meet the following: (7-1-06)T

- 01. **Age.** Children from birth through the month in which their twenty first birthday occurs; and (7-1-06)T
- 02. **Diagnosis.** Must be identified by a physician or other practitioner of the healing arts in an EPSDT screen as having: one (1) of the diagnoses found in Subsections 726.03 through 726.05 of these rules. (7-1-06)F(7-1-06)T
- ~~03.~~ **Developmental Delay or Disability:** A physical or mental condition which has a high probability of resulting in developmental delay or disability, or children who meet the definition of developmental disability as defined in Section 66-402, Idaho Code; ~~or.~~ (7-1-06)F(7-1-06)T
- ~~04.~~ **Special Health Care Needs:** Have special health care needs requiring medical and multidisciplinary habilitation or rehabilitation services to prevent or minimize a disability; ~~or.~~ (7-1-06)F(7-1-06)T
- 05. **Serious Emotional Disturbance (SED).** Severe Have a serious emotional disorder: Have been diagnosed with a severe emotional disorder under DSM-IV-TR; disturbance (SED) with an expected duration of at

least one (1) year; ~~and~~ The following definition of the SED target populations is based on the definition of SED found in the Children's Mental Health Services Act, Section 16-2403, Idaho Code. ~~(7-1-06)T~~(7-1-06)T

a. Presence of an emotional or behavioral disorder, according to the DSM-IV-TR or subsequent revisions to the DSM, which results in a serious disability; and (7-1-06)T

b. Requires sustained treatment interventions; and (7-1-06)T

c. Causes the child's functioning to be impaired in thought, perception, affect, or behavior. (7-1-06)T

d. The disorder is considered to be a serious disability if it causes substantial impairment in functioning. Functional impairment must be assessed using the Child and Adolescent Functional Assessment Scale/Preschool and Early Childhood Functional Assessment Scale (CAFAS/PECFAS). Substantial impairment requires a full eight (8) scale score of eighty (80) or higher on the CAFAS or a full seven (7) scale score of eighty (80) or higher on the PECFAS with "moderate" impairment in at least one (1) of the following three (3) scales: (7-1-06)T

i. Self-Harmful Behavior; (7-1-06)T

ii. Moods/Emotions; or (7-1-06)T

iii. Thinking. (7-1-06)T

e. A substance abuse disorder, or conduct disorder, or developmental disorder, alone, does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. (7-1-06)T

036. Need Assistance. Have one (1) or more of the following problems associated with their diagnosis: (7-1-06)T

a. The condition has resulted in a level of functioning below normal age level in one (1) or more life areas such as school, family, or community; or (7-1-06)T

b. The child is at risk of placement in a more restrictive environment or the child is returning from an out of home placement as a result of the condition; or (7-1-06)T

c. There is danger to the health or safety of the child or the parent is unable to meet the needs of the child; or (7-1-06)T

d. Further complications may occur as a result of the condition without provision of service coordination services; or (7-1-06)T

e. The child requires multiple service providers and treatments. (7-1-06)T

Section 736

736. SERVICE COORDINATION - ~~PAYMENT METHODOLOGY~~ PROVIDER REIMBURSEMENT.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0603

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is October 1, 2006. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-202(b), and 56-250 through 56-257, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The text is being amended to have the Aged and Disabled Waiver Services provider qualifications for residential rehabilitation services aligned with the provider qualifications under the Developmental Disabilities and Idaho State School and Hospital (DD/ISSH) Waiver Services. The rules have also had references updated.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin.

The original text of the proposed rule was published in the November 1, 2006 Idaho Administrative Bulletin, Vol. 06-11, pages 51 through 74.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Chris Baylis at (208) 364-1891.

DATED this 30th day of November, 2006.

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DOCKET NO. 16-0310-0603 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-11, November 1, 2006, pages 51 through 74.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET 16-0310-0603

Subsection 075.05

075. ENHANCED PLAN BENEFITS - COVERED SERVICES.

Individuals who are eligible for the Medicaid Enhanced Plan Benefits are eligible for all benefits covered under IDAPA 16.03.09, "Medicaid Basic Plan Benefits." In addition to those benefits, individuals in the enhanced plan are eligible for the following enhanced benefits as provided for in this chapter of rules. (7-1-06)T

- 05. Long Term Care Services.** The following services are provided under the Long Term Care Services. (7-1-06)T
- a.** Nursing Facility Services as described in Sections 220 through 299 of these rules. (7-1-06)T
 - b.** Personal Care Services as described in Sections 300 through ~~319~~ 308 of these rules. ~~(7-1-06)T~~(10-1-06)T
 - c.** A & D Wavier Services as described in Sections 320 through ~~335~~ 330 of these rules. ~~(7-1-06)T~~(10-1-06)T

Subsection 329.18

329. AGED OR DISABLED WAIVER SERVICES - PROVIDER QUALIFICATIONS AND DUTIES.

Each provider must have a signed provider agreement with the Department for each of the services it provides. (7-1-06)T

18. Residential Habilitation Provider Qualifications. *Residential habilitation services must be provided by an agency that is capable of supervising the direct services provided. Individuals who provide residential habilitation services in their own home must be certified by the Department as a certified family home and must be affiliated with a residential habilitation agency. The residential habilitation agency provides oversight, training, and quality assurance to the certified family home provider. Individuals who provide residential habilitation services in the home of the participant (supported living), must be employed by a residential habilitation agency.* Providers of residential habilitation services must meet the following requirements: ~~(10-1-06)T~~(10-1-06)T

- a. Direct service staff must meet the following minimum qualifications: (10-1-06)T
- i. Be at least eighteen (18) years of age; (10-1-06)T
 - ii. Be a high school graduate or have a GED or demonstrate the ability to provide services according to a plan of care; (10-1-06)T
 - iii. Have current CPR and First Aid certifications; (10-1-06)T
 - iv. Be free from communicable diseases; (10-1-06)T
 - v. Each staff person assisting with participant medications must successfully complete and follow the "Assistance with Medications" course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing or other Department-approved training. (10-1-06)T
 - vi. Satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks;" (10-1-06)T
 - ~~vi. Participate in an orientation program, including the purpose and philosophy of services, service rules, policies and procedures, proper conduct in relating to waiver participants, and handling of confidential and emergency situations that involve the waiver participant, provided by the agency prior to performing services; and (10-1-06)T~~
 - vii. Have appropriate certification or licensure if required to perform tasks which require certification or licensure. Direct service staff must also have taken a traumatic brain injury training course approved by the Department. (10-1-06)T
- b. The provider agency is responsible for providing direct service staff with a traumatic brain injury training course approved by the Department, and training specific to the needs of the participant. Skill training may be provided by a Program Coordinator who has demonstrated experience in writing skill training programs, if no agency is available in their geographic area as outlined in Subsection 329.18.c. of this rule. ~~Additional training requirements may also include:~~ (10-1-06)T(10-1-06)T
- ~~i. Instructional technology; (10-1-06)T~~
 - ~~ii. Behavior technology; (10-1-06)T~~
 - ~~iii. Feeding; (10-1-06)T~~
 - ~~iv. Communication or sign language; (10-1-06)T~~
 - ~~v. Mobility; (10-1-06)T~~
 - ~~vi. Assistance with medications, training in assistance with medications must be provided by a licensed nurse; (10-1-06)T~~
 - ~~vii. Activities of daily living; (10-1-06)T~~
 - ~~viii. Body mechanics and lifting techniques; (10-1-06)T~~
 - ~~ix. Housekeeping techniques and maintenance of a clean, safe, and healthy environment. (10-1-06)T~~
- c. Residential habilitation providers who are unable to be employed by an agency because one is not available in their geographic area, must receive program development, implementation and oversight of service delivery services by a program coordinator who has a valid service coordination provider agreement with the Department and who has taken a traumatic brain injury training course approved by the Department. (10-1-06)T

d. Prior to delivering services to a participant, direct service staff must complete an orientation program. The orientation program must include the following subjects: (10-1-06)T

i. Purpose and philosophy of services: (7-1-06)T

ii. Service rules: (7-1-06)T

iii. Policies and procedures: (7-1-06)T

iv. Proper conduct in relating to waiver participants: (7-1-06)T

v. Handling of confidential and emergency situations that involve the waiver participant: (7-1-06)T

vi. Participant rights: (7-1-06)T

vii. Methods of supervising participants: (7-1-06)T

viii. Working with individuals with traumatic brain injuries; and (7-1-06)T

ix. Training specific to the needs of the participant. (7-1-06)T

e. Additional training requirements must be completed within six (6) months of employment or affiliation with the residential habilitation agency and include at a minimum: (10-1-06)T

i. Instructional techniques: Methodologies for training in a systematic and effective manner: (10-1-06)T

ii. Managing behaviors: Techniques and strategies for teaching adaptive behaviors: (10-1-06)T

iii. Feeding: (10-1-06)T

iv. Communication: (10-1-06)T

v. Mobility: (10-1-06)T

vi. Activities of daily living: (10-1-06)T

vii. Body mechanics and lifting techniques: (10-1-06)T

viii. Housekeeping techniques; and (10-1-06)T

ix. Maintenance of a clean, safe, and healthy environment. (10-1-06)T

f. The provider agency will be responsible for providing on-going training specific to the needs of the participant as needed; and (10-1-06)T

~~dg.~~ When residential habilitation services are provided in the provider's home, the provider must ~~be certified by the Department as a certified family home and~~ meet the requirements in IDAPA 16.03.19, "Rules Governing Certified Family Homes." Non-compliance with the certification process is cause for termination of the provider agreement or contract. (10-1-06)T(10-1-06)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.13 - PRIOR AUTHORIZATION FOR BEHAVIORAL HEALTH SERVICES
DOCKET NO. 16-0313-0601 (CHAPTER REPEAL)
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202, 56-203, and 56-250 through 56-257, Idaho Code. These rule changes are being made to bring this chapter of rules into compliance with HB 776 (2006) - "Idaho Medicaid Simplification Act."

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, page 467.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Pam Mason at (208) 364-1863.

DATED this 6th day of October, 2006.

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DOCKET NO. 16-0313-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, page 467.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.13 - CONSUMER-DIRECTED SERVICES

DOCKET NO. 16-0313-0602 (CHAPTER REWRITE)

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is October 1, 2006. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-250 through 56-257, Idaho Code. These rule changes are being made to bring this chapter of rules into compliance with HB 776 (2006) - "Idaho Medicaid Simplification Act," SB1417 (2006), and HCR 50 (2006).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The amendments to these rules are the result of comments from Legislative Services Office, public hearings and comments received during the comment period, and from within the Department. Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule. The following are specific changes made to the temporary and proposed rules:

1. Section 009 - The compliance requirements for criminal history and background checks for community support workers were clarified and the "Availability to Work or Provide Services" section was re-written to clearly state when community support workers may provide services on a provisional basis.
2. Section 010 - A definition for the term "Goods" was added to distinguish goods from services.
3. Section 120 - The participant's responsibilities regarding the negotiation of rates was revised and now states that the negotiated rate not exceed the prevailing market rate. This change helps protect the participant from exploitation.
4. Section 135 - Language was clarified dealing with the support broker's limitations on receiving financial benefit based on the participant's decisions. This change will help assure that the support broker remains an objective third party.
5. Section 136 - The duties of a support broker were expanded by adding a requirement that a Department-approved form be completed showing that the support broker has provided education and counseling to the participant when he chooses to waive a criminal history check. The amount of time that a support broker has to inform a participant that the support broker is going to end services was increased from fifteen (15) days to thirty (30) days. Also, the subsection that outlined "Optional" support broker duties was amended to be "Additional" duties and they are now mandatory duties when the participant requests them.
6. Section 140 - Language was added to clarify that a legal guardian may be a paid community support worker and lists the limitations of that payment.
7. Section 150 - This section was amended by adding the requirement that if a criminal history check has been waived, documentation must be provided on a Department-approved form.
8. Section 160 - Language was added to this section to clarify that there will be no gap in services when the participant switches between traditional services and the new Self-Directed Community Supports (SDCS) program. The revisions also clarify that a participant of the SDCS program may live with participants of traditional Medicaid services if they choose.
9. Section 180 - Language has been added to require that a non-family member be included in the circle of supports when the legal guardian is a paid community support worker. For the purpose of this chapter, the

- meaning of “family member” was defined.
10. Section 200 - This section dealing with quality assurance was strengthened in its review of criminal history check waivers and reviews of services for participants who have legal guardians as paid community support workers.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the temporary and proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 468 through 481.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact David Simnitt at (208) 364-1992.

DATED this 8th day of November, 2006.

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DOCKET NO. 16-0313-0602 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 468 through 481.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 16-0313-0602

Subsections 009.01 and 009.02

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance With Department Criminal History Check. The fiscal employer agent must verify that each support broker and community support worker, whose criminal history check has not been waived by the participant, has complied with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." When a participant chooses to waive the criminal history check requirement for a community support worker, the waiver must be completed in accordance with Section 150 of these rules. ~~(10-1-06)F~~(10-1-06)T

02. Availability to Work or Provide Service. ~~Certain providers are allowed to provide services after the Department has received the self-declaration and fingerprinting, except when they have disclosed a designated crime listed in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks." The criminal history check requirements applicable to each provider type are found in the rules that state the qualifications of these providers. Participants, at their discretion, may review the completed application and allow the community support worker to provide services on a provisional basis if no disqualifying offenses listed in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks" are disclosed.~~ ~~(10-1-06)F~~(10-1-06)T

Section 010 - Entire Section

010. DEFINITIONS.

01. Circle of Supports. People who encourage and care about the participant and provide unpaid supports. (10-1-06)T

02. Community Support Worker ~~(CSW)~~. An individual, agency, or vendor selected and paid by the participant to provide community support worker services. ~~(10-1-06)F~~(10-1-06)T

03. Community Support Worker Services. Community support worker services are those identified supports listed in Section 110 of these rules. (10-1-06)T

~~**04. Guiding Principles for the SDCS Option.** Self-Directed Community Supports is based upon the concept of self-determination and has the following guiding principles:~~ ~~(10-1-06)F~~

~~**a.** Freedom for the participant to make choices and plan his own life;~~ ~~(10-1-06)F~~

~~**b.** Authority for the participant to control resources allocated to him to acquire needed supports;~~ ~~(10-1-06)F~~

~~**c.** Opportunity for the participant to choose his own supports;~~ ~~(10-1-06)F~~

~~**d.** Responsibility for the participant to make choices and take responsibility for the result of those choices; and~~ ~~(10-1-06)F~~

~~**e.** Shared responsibility between the participant and his community to help the participant become an involved and contributing member of that community.~~ ~~(10-1-06)F~~

05. Financial Management Services ~~(FMS)~~. Services provided by a fiscal employer agent that include: ~~(10-1-06)F~~(10-1-06)T

a. Financial guidance and support to the participant by tracking individual expenditures and monitoring overall budgets; (10-1-06)T

b. Performing payroll services; and (10-1-06)T

- c. Handling billing and employment related documentation responsibilities. (10-1-06)T
- ~~065.~~ **Fiscal Employer Agent.** An agency that provides Financial Management Services ~~(FMS)~~ to participants who have chosen the SDCS option. ~~(10-1-06)T~~(10-1-06)T
- ~~06.~~ **Goods.** Tangible products or merchandise that are authorized on the support and spending plan. (10-1-06)T
- ~~07.~~ **Guiding Principles for the SDCS Option.** Self-Directed Community Supports is based upon the concept of self-determination and has the following guiding principles: (10-1-06)T
- ~~a.~~ Freedom for the participant to make choices and plan his own life: (10-1-06)T
- ~~b.~~ Authority for the participant to control resources allocated to him to acquire needed supports: (10-1-06)T
- ~~c.~~ Opportunity for the participant to choose his own supports: (10-1-06)T
- ~~d.~~ Responsibility for the participant to make choices and take responsibility for the result of those choices: and (10-1-06)T
- ~~e.~~ Shared responsibility between the participant and his community to help the participant become an involved and contributing member of that community. (10-1-06)T
- ~~078.~~ **Supports.** Services provided for a participant, or a person who provides a support service. A support service may be a paid service provided by a community support worker, or an unpaid service provided by a natural support, such as a family member, a friend, neighbor, or other volunteer. A person who provides a support service for pay is a paid support. A person who provides a volunteer support service is a natural support. (10-1-06)T
- ~~089.~~ **Support Broker.** An individual who advocates on behalf of the participant and who is hired by the participant to provide support broker Services. (10-1-06)T
- ~~0910.~~ **Support Broker Services.** Services provided by a support broker to assist the participant with planning, negotiating, and budgeting. (10-1-06)T

Subsection 120.03

120. PARTICIPANT RESPONSIBILITIES.

With the assistance of the support broker and the legal representative, if one exists, the participant is responsible for the following: (10-1-06)T

- ~~03.~~ **Rates.** Negotiating payment rates for all paid community supports he wants to purchase, ensuring rates negotiated for supports and services do not exceed the prevailing market rate. and including the details in the employment agreements. ~~(10-1-06)T~~(10-1-06)T

Section 131 and Subsection 131.05

131. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES.

The fiscal employer agent performs Financial Management Services for each participant. Prior to providing Financial Management Services the participant and the fiscal employer agent must enter into a written agreement. Financial Management Services ~~services~~ include: ~~(10-1-06)T~~(10-1-06)T

- ~~05.~~ **Taxes.** Managing and processing payment of required state and federal employment taxes for the

participant's community support workers and support brokers.

~~(10-1-06)F~~(10-1-06)T

Subsections 135.04, 135.04.a. through 135.04.c. and 135.05.b.

135. SUPPORT BROKER REQUIREMENTS AND LIMITATIONS.

04. Termination. The Department may terminate the provider agreement when *the support broker:*
~~(10-1-06)F~~(10-1-06)T

a. ~~The support broker~~ Is no longer able to pass a criminal history background check as outlined in Section 009 of these rules. ~~(10-1-06)F~~(10-1-06)T

b. ~~The support broker~~ Puts the health or safety of the participant at risk by failing to perform job duties as outlined in the employment agreement. ~~(10-1-06)F~~(10-1-06)T

c. ~~The support broker~~ Does not receive and document the required ongoing training. ~~(10-1-06)F~~(10-1-06)T

05. Limitations. The support broker must not: (10-1-06)T

a. Provide or be employed by an agency that provides paid community supports under Section 150 of these rules to the same participant; and (10-1-06)T

b. Be the guardian, parent, spouse, payee, or conservator of the participant, or have direct control over the participant's choices. Additionally, the support broker must not be in a position to both influence a participant's decision making and receive undue financial benefit ~~financially~~ from the participant's decisions. ~~(10-1-06)F~~(10-1-06)T

Subsections 136.02.f., 136.02.g., 136.02.h., 136.03 and 136.04

136. SUPPORT BROKER DUTIES AND RESPONSIBILITIES.

02. Required Support Broker Duties. Support broker services may include only a few required tasks or may be provided as a comprehensive service package depending on the participant's needs and preferences. At a minimum, the support broker must: (10-1-06)T

f. Assist the participant to complete the annual re-determination process as needed, including updating the support and spending plan and submitting it to the Department for authorization; ~~and~~
~~(10-1-06)F~~(10-1-06)T

g. Assist the participant, as needed, to meet ~~his~~ *the* participant responsibilities outlined in Section 120 of these rules and assist the participant, as needed, to protect his own health and safety.; ~~and~~ ~~(10-1-06)F~~(10-1-06)T

h. Complete the Department-approved criminal history check waiver form when a participant chooses to waive the criminal history check requirement for a community support worker. Completion of this form requires that the support broker provide education and counseling to the participant and his circle of support regarding the risks of waiving a criminal history check and assist with detailing the rationale for waiving the criminal history check and how health and safety will be protected. (10-1-06)T

03. Optional Additional Support Broker Duties. ~~Depending on the requests and needs of each participant, the support broker may:~~ In addition to the required support broker duties, each support broker must be

able to provide the following services when requested by the participant:

~~(10-1-06)F~~(10-1-06)T

04. Termination of Support Broker Services. If a support broker decides to end services with a participant, he must give the participant at least ~~fifteen~~ *thirty (30)* days' written notice prior to terminating services. The support broker must assist the participant to identify a new support broker and provide the participant and new support broker with a written service transition plan by the date of termination. The transition plan must include an updated support and spending plan that reflects current supports being received, details about the existing community support workers, and unmet needs.

~~(10-1-06)F~~(10-1-06)T

Section 140 - Entire Section

140. COMMUNITY SUPPORT WORKER LIMITATIONS.

A paid community support worker must not *be the spouse of the participant and must not* have direct control over the participant's choices, must avoid any conflict of interest, and ~~cannot~~ *must not receive undue financial* benefit ~~financially~~ from the participant's choices. *A legal guardian can be a paid community support worker but must not be paid from the individualized budget for the following:*

~~(10-1-06)F~~(10-1-06)T

01. Participant Responsibilities. *The legal guardian must not be paid to perform or to assist the participant in meeting the participant responsibilities outlined in Section 120 of these rules.*

~~(10-1-06)F~~(10-1-06)T

02. Legal Guardian Obligations. *The legal guardian must not be paid to fulfill any obligations he is legally responsible to fulfill as outlined in the guardianship or conservator order from the court.*

~~(10-1-06)F~~(10-1-06)T

Subsection 150.01.a.

150. PAID COMMUNITY SUPPORT WORKER DUTIES AND RESPONSIBILITIES.

01. Initial Documentation. Prior to providing goods or services to the participant, the community support worker must complete the packet of information provided by the fiscal employer agent and submit it to the fiscal employer agent. When the community support worker will be providing services, this packet must include documentation of:

(10-1-06)T

a. A completed criminal history check, including clearance in accordance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks," or documentation that this requirement has been waived by the participant. This documentation ~~will~~ *must be provided on a Department-approved form and must* include the rationale for waiving the criminal history check and describe how health and safety will be assured in lieu of a completed criminal history check. Individuals listed on a state or federal provider exclusion list must not provide paid supports;

~~(10-1-06)F~~(10-1-06)T

Subsections 160.02.a. and 160.02.b.

160. SUPPORT AND SPENDING PLAN DEVELOPMENT.

02. Support and Spending Plan Limitations. Support and spending plan limitations include:

(10-1-06)T

a. Traditional Medicaid waiver and traditional rehabilitative or habilitative services must not be purchased under the SDCS option. *Because a participant cannot receive these traditional services and self-directed services at the same time, the participant, the support broker, and the Department must all work together to assure that there is no interruption of required services when moving between traditional services and the SDCS option;*

~~(10-1-06)F~~(10-1-06)T

b. Paid community supports must not be provided in a ~~congregate group~~ setting with recipients of traditional Medicaid waiver, rehabilitative or habilitative services. This limitation does not preclude a participant who has selected the self-directed option from choosing to live with recipients of traditional Medicaid services;

~~(10-1-06)F~~(10-1-06)T

Subsection 180.02

180. CIRCLE OF SUPPORTS.

The circle of support is a means of natural supports for the participant and consists of people who encourage and care about the participant. Work or duties the circle of supports perform on behalf of the participant are not paid.

(10-1-06)T

02. Members of the Circle of Support. A circle of support may include family members, friends, neighbors, co-workers, and other community members. When the participant's legal guardian is selected as a community support worker, the circle of support must include at least one (1) non-family member that is not the support broker. For the purposes of this chapter a family member is anyone related by blood or marriage to the participant or to the legal guardian.

~~(10-1-06)F~~(10-1-06)T

Subsections 200.01, 200.03, 200.04, and 200.08

200. QUALITY ASSURANCE.

The Department will implement quality assurance processes to assure: access to self-directed services, participant direction of plans and services, participant choice and direction of providers, safe and effective environments, and participant satisfaction with services and outcomes.

(10-1-06)T

01. Participant Experience Survey (PES). Each participant will have the opportunity to provide feedback to the Department about his satisfaction with self-directed services utilizing the ~~Participant Experience Survey~~ (PES).

~~(10-1-06)F~~(10-1-06)T

03. Fiscal Employer Agent Quality Assurance Activities. The fiscal employer agent must participate in quality assurance activities identified by the Department such as readiness reviews, periodic audits, maintaining a list of criminal history check waivers, and timely reporting of accounting and satisfaction data. ~~(10-1-06)F~~(10-1-06)T

04. Community Support Workers and Support Brokers Quality Assurance Activities. Community support workers and support brokers must participate and comply with quality assurance activities identified by the Department including performance evaluations, satisfaction surveys, quarterly review of services provided by a legal guardian, if applicable, and spot audits of time sheets and billing records.

~~(10-1-06)F~~(10-1-06)T

08. Quarterly Quality Assurance Reviews. On a quarterly basis, the Department will perform an enhanced review of services for those participants who have waived the criminal history check requirement for a community support worker or who have their legal guardian providing paid services. These reviews will assess ongoing participant health and safety and compliance with the approved support and spending plan.

(10-1-06)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.16 - PREMIUM ASSISTANCE

DOCKET NO. 16-0316-0601

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective dates for the amendments to the temporary rules are July 1, 2006, and December 1, 2006. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-202(b), 56-239, 56-240, and 56-250 through 56-257, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The amendments to this docket include the addition of definitions for the Access to Health Insurance Program and Children's Access Card and a section for Participant Eligibility for those programs. The payment of a premium to an insurance vendor was amended to clarify that it could be for a full or partial payment. The CMS has granted approval for the Medicaid Health Insurance Flexibility and Accountability (HIFA) waiver amendment and the employer's share requirement is amended to reflect that approval.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 482 through 492.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

There is no fiscal impact to the state General Fund due to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Robin Pewtress at (208) 364-1892.

DATED this 8th day of November, 2006.

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DOCKET NO. 16-0316-0601 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 482 through 492.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET 16-0316-0601

Section 010 - Entire Section

010. DEFINITIONS.

01. *Access to Health Insurance.* A premium assistance program available to Idaho small business employers to help provide private insurance for their employees. (7-1-06)T

02. *Children's Access Card.* A premium assistance program that pays a premium subsidy toward a private health insurance plan for children who choose to participate in the program. (7-1-06)T

~~043.~~ **COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985).** A federal law that requires most employers to allow eligible employees and their beneficiaries to continue to self-pay for their coverage after it normally terminates for up to eighteen (18), twenty-four (24), twenty-nine (29), or thirty-six (36) months. (4-11-06)

~~024.~~ **Co-Payment (Co-Pay).** The amount a participant is required to pay for specified services as required by the participant's private health insurance coverage. (7-1-06)T

~~035.~~ **Cost-Sharing.** A payment the participant is required to make toward the cost of their health care as required by the participant's private health insurance coverage. (7-1-06)T

~~046.~~ **Department.** The Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department. (7-1-06)T

~~057.~~ **Insurance Carrier.** An insurance company regulated by the Idaho Department of Insurance. (4-11-06)

~~068.~~ **Insurance Representative.** An Insurance Representative is the acting intermediary between the Department of Health and Welfare and the participating small business employer. (4-11-06)

~~079.~~ **Insurance Vendor.** An insurance carrier authorized to receive payments from the Department. (4-11-06)

~~0810.~~ **Participant.** An individual receiving premium assistance under these rules. (7-1-06)T

~~0911.~~ **Premium.** A regular and periodic charge or payment for health coverage. (4-11-06)

~~102.~~ **Premium Assistance.** The partial or total premium payment made to an insurance company to supplement the cost of enrolling a program participant in a health insurance plan. (4-11-06)

~~113.~~ **Social Security Act.** 42 U.S.C. 101 et seq., authorizing, in part, federal grants to the states for health care assistance to eligible low-income individuals. (4-11-06)

~~124.~~ **State.** The state of Idaho. (4-11-06)

~~135.~~ **Title XIX.** Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (7-1-06)T

~~146.~~ **Title XXI.** Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP). This is a program that primarily pays for medical assistance for low-income children. (7-1-06)T

Sections 031 through 039

~~031. -- 0394.~~ (RESERVED).

035. PARTICIPANT ELIGIBILITY.

01. **Children's Access Card.** Eligibility for Children's Access Card participants is determined according to IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (7-1-06)T

02. **Access to Health Insurance.** Eligibility for Access to Health Insurance participants is determined according to this chapter of rules. (7-1-06)T

~~036. -- 039.~~ (RESERVED).

Subsection 070.01

070. GENERAL REIMBURSEMENT.

01. Insurance Premium Subsidy. The Department will pay an insurance premium subsidy to an insurance vendor in full or partial payment of a premium for a qualifying health benefit plan selected by a participating employer. The Department's payment will not exceed one hundred dollars (\$100) each month for each participant. The total payment for eligible children in the same family will not exceed three hundred dollars (\$300) each month. The total payment for a family will not exceed five hundred dollars (\$500) each month. (~~7-1-06~~)T(7-1-06)T

Subsection 100.07

100. EMPLOYER PARTICIPATION.

An Idaho Small Business Employer who wants to participate in the Access to Health Insurance program must meet each of the following conditions: (7-1-06)T

07. Employer Share. The employer must pay at least fifty percent (50%) of the employee's premium; or if the spouse also participates, fifty percent (50%) of the combined premium for the employee and spouse until approval of the Medicaid waiver amendment by the Centers for Medicare and Medicaid Services (CMS). Upon approval of the Medicaid waiver amendment, the employer and must meet their insurance carrier's contribution and participation guidelines. (~~7-1-06~~)T(12-1-06)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.17 - SERVICE COORDINATION

DOCKET NO. 16-0317-0601 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202, 56-203, and 56-250 through 56-257, Idaho Code. These rule changes are being made to bring this chapter of rules into compliance with HB 776 (2006) - "Idaho Medicaid Simplification Act."

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, page 493.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Pam Mason at (208) 364-1863.

DATED this 6th day of October, 2006.

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DOCKET NO. 16-0317-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, page 493.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.18 - MEDICAID COST-SHARING

DOCKET NO. 16-0318-0601 (FEE RULE)

NOTICE OF RULEMAKING

ADOPTION OF PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective dates of the amendments to the temporary rules are July 1, 2006, October 1, 2006 and December 1, 2006. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 56-202(b), 56-239, 56-240, and 56-250 through 56-257, Idaho Code, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The changes to this docket include the following:

1. Amended the definitions section by adding, deleting, and clarifying definitions;
2. Added an exemption for Native American and Alaskan Native participants from specific types of cost-sharing;
3. Amended language related to family incomes limits for clarification;
4. Changed the effective date of premiums for families with incomes between 133% and 150% of the Federal Poverty Guideline(FPG) to align with the implementation of the Preventive Health Assistance Benefits under the Medicaid Basic Plan; and
5. Moved the Home and Community-Based Waiver (HCBS) participant's cost-sharing provisions from IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," into this chapter.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the temporary and proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 494 through 503.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. 2006 Legislature approved HB 663 and HCR 50 which identify the requirements for cost sharing. The Department's 2007 budget reflects the fiscal impact for these policy changes in HB 849 appropriations. It is anticipated that these rule changes will have a cost savings to the state general fund of \$473,000.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is being done to comply with deadlines in amendments to governing law or federal programs and confers a benefit.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

These rule changes maintain the "cost-sharing" requirements that were in the original chapter of rule. The premium for a family with income above one hundred thirty three percent (133%) of the federal poverty level is ten dollars (\$10) per month for each participant. This is a new fee. A family with income above one hundred fifty percent

(150%) of the federal poverty level is fifteen dollars (\$15) per month for each participant, which is currently in rule. The effective dates for cost-sharing are July 1, 2006, October 1, 2006, and December 1, 2006.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Robin Pewtress at (208) 364-1892.

DATED this 14th day of November, 2006.

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DOCKET NO. 16-0318-0601 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 494 through 503.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET 16-0318-0601

Section 010 - Entire Section

010. DEFINITIONS.

01. *Co-Payment (Co-Pay).* The amount a participant is required to pay to the provider for specified services. (7-1-06)T

~~02.~~ *Cost-Sharing.* A payment the participant is required to make toward the cost of his health care. (4-6-05)

~~03.~~ *Department.* The Idaho Department of Health and Welfare, or a person authorized to act on behalf of the Department. (7-1-06)T

~~03.~~ *Director.* The Director of the Department of Health and Welfare or his designee. (7-1-06)T

04. **Federal Poverty Guidelines (FPG).** The federal poverty guidelines issued annually by the U. S. Department of Health and Human Services (HHS). (7-1-06)T

05. **Medical Assistance.** Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (7-1-06)T

056. **Participant.** A person ~~who is found~~ eligible ~~under IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," for~~ and ~~receives medical assistance under IDAPA 16.03.09, "Medicaid Basic Plan Benefits."~~ enrolled in the Idaho Medical Assistance Program. (7-1-06)T(7-1-06)T

067. **Premium.** A regular and periodic charge or payment for health coverage. (4-6-05)

078. **Social Security Act.** 42 U.S.C. 101 et seq., authorizing, in part, federal grants to the states for medical assistance to eligible low-income individuals. (4-6-05)

089. **State.** The state of Idaho. (4-6-05)

Sections 011 through 199

011. -- ~~199~~24. (RESERVED).

025. **PARTICIPANTS EXEMPT FROM COST-SHARING.**
Native American and Alaskan Native participants are exempt from the cost-sharing provisions of Sections 200 and 300 of these rules. The participant must declare his race to the Department to receive this exemption. (7-1-06)T

~~026. - 199.~~ (RESERVED).

Subsections 200.01 and 200.02

200. PREMIUMS ~~FOR PARTICIPATION IN MEDICAID BASIC PLAN.~~

01. **Family Income Above 133% of FPG.** Each participant with family income ~~at or~~ above one hundred and thirty-three percent (133%) of the Federal Poverty Guideline (FPG) ~~but below and equal to or less than~~ one hundred and fifty percent (150%) of the FPG must pay a monthly premium of ten dollars (\$10) to the Department. (10-1-06)T(12-1-06)T

02. **Family Income Above 150% of FPG.** Each participant with family income ~~of above~~ one-hundred and fifty percent (150%) of the Federal Poverty Guideline (FPG) ~~or above~~ must pay a monthly premium of fifteen dollars (\$15) to the Department. (10-1-06)T(10-1-06)T

Sections 251 through 999

251. -- ~~93~~99. (RESERVED).

400. PARTICIPATION IN THE COST OF HOME AND COMMUNITY-BASED WAIVER SERVICES.
Medicaid participants required to participate in the cost of Home and Community-Based Waiver (HCBS) services as described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," must have their share of cost determined as described in Subsections 400.01 through 400.10 of this rule. (7-1-06)T

01. **Excluded Income.** Income excluded under the provisions of IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Sections 723 and 725, is excluded in determining participation. (7-1-06)T

02. Base Participation. *Base participation is income available for participation after subtracting all allowable deductions, except for the incurred medical expense deduction in Subsection 400.07 of this rule. Base participation is calculated by the participant's Self Reliance Specialist. The incurred medical expense deduction is calculated by the Regional Medicaid Services (RMS).* (7-1-06)T

03. Community Spouse. *Except for the elderly or physically disabled participant's personal needs allowance, base participation for a participant with a community spouse is calculated under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 725. A community spouse is the spouse of an HCBS participant who is not an HCBS participant and is not institutionalized. The HCBS personal needs allowance for a participant living in adult residential care equals the federal Supplemental Security Income (SSI) benefit rate for an individual living independently.* (7-1-06)T

04. Home and Community Based Services (HCBS) Spouse. *Except for the elderly or physically disabled participant's personal needs allowance (PNA), base participation for a participant with an HCBS spouse is calculated and specified under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 723. An HCBS spouse is the spouse of a participant who also receives HCBS.* (7-1-06)T

05. Personal Needs Allowance. *The participant's personal needs allowance depends on his marital status and legal obligation to pay rent or mortgage. The participant's personal needs allowance is deducted from his income after income exclusions and before other allowable deductions. To determine the amount of the personal needs allowance, use Table 400.05 of this rule:*

TABLE 400.05 - PERSONAL NEEDS ALLOWANCE			
Amount of Personal Needs Allowance (PNA) for Participation			
Not Responsible for Rent or Mortgage		Responsible for Rent or Mortgage	
Marital Status	PNA	Marital Status	PNA
No Spouse	One-hundred percent (100%) of the federal SSI benefit for a person with no spouse	No Spouse	One-hundred and fifty percent (150%) of the Federal SSI benefit for a person with no spouse
Married with Community Spouse	One-hundred and fifty percent (150%) of the Federal SSI benefit for a person with no spouse	Married with Community Spouse	One-hundred and fifty percent (150%) of the Federal SSI benefit for a person with no spouse
Married with HCBS Spouse	One-hundred percent (100%) of the Federal SSI benefit for a person with no spouse. Each spouse receives this amount as his PNA.	Married with HCBS Spouse	One-hundred and fifty percent (150%) of the Federal SSI benefit for a single person. Each spouse receives this amount as his PNA.

(7-1-06)T

06. Developmentally Disabled Participants. *These allowances are specified in IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." The HCBS personal needs allowance for adult participants receiving waiver services under the Developmentally Disabled Waiver is three (3) times the federal SSI benefit amount to an individual in his own home.* (7-1-06)T

07. Incurred Medical Expenses. *Amounts for certain limited medical or remedial services not covered by the Idaho Medicaid Plan and not paid by a third party may be deducted from the base participation amount. The Department must determine whether a participant's incurred expenses for such limited services meet the criteria for deduction. The participant must report such expenses and provide verification in order for an expense to be considered for deduction. Costs for over-the-counter medications are included in the personal needs allowance and will not be considered a medical expense. Deductions for necessary medical or remedial expenses approved by the*

Department will be deducted at application, and changed, as necessary, based on changes reported to the Department by the participant. (7-1-06)T

08. Remainder After Calculation. Any remainder after the calculation in Subsection 400.05 of this rule is the maximum participation to be deducted from the participant's provider payments to offset the cost of services. The participation amount will be collected from the participant by the provider. The provider and the participant will be notified by the Department of the amount to be collected. (7-1-06)T

09. Recalculation of Participation. The participant's participation amount must be recalculated annually at redetermination or whenever a change in income or deductions becomes known to the Department. (7-1-06)T

10. Adjustment of Participation Overpayment or Underpayment Amounts. The participant's participation amount is reduced or increased the month following the month the participant overpaid or underpaid the provider. (7-1-06)T

401. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.18 - MEDICAID COST-SHARING

DOCKET NO. 16-0318-0602

NOTICE OF RULEMAKING

ADOPTION OF PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2007. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending and temporary rule. The action is authorized pursuant to Sections 56-202(b), 56-203(g), and 56-209n, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule amendment changes when the premium amount is recomputed for a participant in the Worker's with Disabilities Program. The premium amount will be recomputed when either the annual re-determination is conducted or changes in the participant's countable income change the Federal Poverty Guideline category the participant falls into.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the temporary and proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 257 and 258.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reason(s):

Governing law requires that Medicaid for Workers with Disabilities be effective on January 1, 2007, and this rulemaking confers a benefit to those individuals eligible for the Workers with Disabilities program.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed pursuant to Section 56-209n, Idaho Code. The following is a specific description of the fee or charge imposed or increased:

This rule change will impose a premium based on the Federal Poverty Guideline (FPG) as a sliding fee in order for individuals with disabilities to retain Medicaid coverage while working.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

For the fiscal year 2007, the impact of this rule change to the State General Fund is \$233,900 as appropriated in the 2007 Department Budget.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule or temporary rule, contact Robin Pewtress at (208) 364-1892.

DATED this 6th day of October, 2006.

Sherri Kovach
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DOCKET NO. 16-0318-0602 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 257 and 258.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET 16-0318-0602

Subsection 215.05

215. PREMIUMS FOR PARTICIPATION IN MEDICAID ENHANCED PLAN.

05. Recomputed Premium Amount. Premium amounts are recomputed when ~~the changes to a~~ participant's countable income ~~changes twenty-five percent (25%) or more or at his result in a different percentage premium calculation as determined in Subsections 215.02 through 215.04 of this rule, and at the annual re-~~ determination. ~~(1-1-07)T(1-1-07)T~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.18 - MEDICAID COST-SHARING

DOCKET NO. 16-0318-0701 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is February 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-239 and 56-240, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Date:	Thursday, January 11, 2007	Tuesday, January 16, 2007	Tuesday, January 23, 2007
Time:	7:00 p.m.	5:30 p.m.	7:00 p.m.
Place:	DHW - Region I Office 1120 Ironwood Drive Suite 102 Coeur d'Alene, ID	DHW - Region IV Office 1720 Westgate Dr. Suite D, Room 119 Boise, ID	Idaho Falls Public Library 457 Broadway Library Conference Room Idaho Falls, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department is establishing cost-sharing measures for Medicaid participants to comply with HB 663 passed by the 2006 Legislature. The purpose of this rule change is to increase awareness and responsibility of Medicaid participants regarding the cost of their health care, and encourage them to use the most appropriate cost-effective care setting.

These new cost-sharing measures require participants to pay for part of the cost of Medicaid services, in the form of a co-payment to providers, when they have accessed certain services inefficiently or inappropriately. These rules provide the amount a participant must pay for the inappropriate use of services and references the type of services found in the Medicaid Basic Plan Benefits chapter that these fees will apply to.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is being done to comply with deadlines in amendments to governing law.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

The nominal fee amount allowed for by federal law for the inappropriate use of services is set at three dollars (\$3) beginning February 1, 2007.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The implementation of co-payments are cost neutral to the Medicaid budget. Co-payments will be collected and retained by service providers.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes to these rules are being made to implement legislation passed during the 2006 legislative session.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Robin Pewtress at (208) 364-1892.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 24, 2007.

DATED this 14th day of November, 2006.

Sherri Kovach, Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
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THE FOLLOWING IS THE TEXT OF DOCKET 16-0318-0701

011. -- ~~199~~049. (RESERVED).

050. GENERAL COST-SHARING.

01. Cost-Sharing Maximum Amount. A family will be required to pay out of pocket costs not to exceed five percent (5%) of the family's anticipated gross quarterly income unless an exception is made as provided in Subsection 050.02 of this rule. (2-1-07)T

02. Exception to Cost-Sharing Maximum. A family will be required to pay cost-sharing amounts as provided in Sections 215 and 400 of these rules. These cost-sharing amounts may exceed the family's five percent (5%) of anticipated gross quarterly income. (2-1-07)T

03. Proof of Cost-Sharing Payment. A family that has exceeded the five percent (5%) cost-sharing of the family's anticipated gross quarterly income must provide proof to the Department of the amounts incurred. (2-1-07)T

04. Excess Cost-Sharing. A family that establishes proof of payment for cost-sharing that exceeds the five percent (5%) of the family's anticipated gross quarterly income will be reimbursed by the Department for the amount paid that exceeds the five percent (5%), except as provided in Subsection 050.02 of this rule. (2-1-07)T

05. Cost-Sharing Suspended. A family that exceeds the five percent (5%) maximum amount for cost-sharing will not be required to pay a cost-sharing portion for any family participant for the remainder of the calendar quarter in which proof of payment is established. (2-1-07)T

051. - 199. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

251. -- ~~299~~. (RESERVED).

300. CO-PAYMENTS FOR MEDICAID SERVICES.

Medicaid participants are responsible for making co-payments for the following services under the following

circumstances in Subsections 300.01 and 300.02 of this rule. (2-1-07)T

01. Accessing Hospital Emergency Department for Non-Emergency Medical Conditions. A participant who seeks care at a hospital emergency department for services that do not meet the definition of an emergency medical condition as defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," may be required to pay a co-payment to the provider. The amount of the co-payment is provided in Section 310 of these rules. A participant who must access a hospital emergency department in order to receive routine services for his medical condition is exempt from this provision. (2-1-07)T

02. Accessing Emergency Transportation Services for Non-Emergency Medical Conditions. A participant who accesses emergency transportation services for a condition that is determined by the Department to be a non-emergency medical condition may be required to pay a co-payment to the provider of the service. The amount of the co-payment is provided in Section 310 of these rules. Certain participants are exempt from this co-payment. Exempt participants are: (2-1-07)T

a. A child under the age of nineteen (19) with family income less than or equal to one hundred and thirty-three percent (133%) of the current federal poverty guidelines (FPG); (2-1-07)T

b. A pregnant or post-partum woman when the medical condition for the needed transportation is related to the pregnancy; (2-1-07)T

c. An inpatient in a hospital, nursing facility, intermediate care facility for persons with mental retardation (ICF/MR) or other medical institution, who is required to pay all but a nominal amount of his income to the institution for his care; (2-1-07)T

d. A Medicare beneficiary, whose Medicaid benefits consist of assistance with his Medicare cost-sharing obligations; (2-1-07)T

e. A participant receiving hospice care; (2-1-07)T

f. A child in foster care receiving aid or assistance under the Social Security Act (SSA), Title IV, Part B; (2-1-07)T

g. A participant receiving adoption or foster care assistance under the Social Security Act (SSA), Title IV, Part E, regardless of age; and (2-1-07)T

h. A woman eligible under the breast and cervical cancer eligibility group. (2-1-07)T

301. -- 309. (RESERVED).

310. CO-PAYMENT FEE AMOUNTS.

01. Nominal Amount. The amount of the co-payment must be a nominal amount as provided in 42 CFR 447.54. This nominal amount is set by the U.S. Department of Health and Human Services. (2-1-07)T

02. Fee Amount. Beginning on February 1, 2007, the nominal fee amount required to be paid by the participant as a co-payment is three dollars (\$3). This co-payment amount will be adjusted annually as determined by the Secretary of Human Services. (2-1-07)T

03. Annual Increase. The nominal fee amount will be increased annually by an adjusted percentage rate determined by the Secretary of Health and Human Services as set in the Social Security Act Section 1916. (2-1-07)T

311. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.22 - RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES

DOCKET NO. 16-0322-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: The pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-3305, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

In this pending rule, the Department has amended the proposed rule date for final compliance in Section 152, Admissions Policies, containing the grandfather clause related to fire-suppression sprinklers for certain facilities that accept residents who are incapable of self-evacuation. The date for final compliance has been changed from July 1, 2007, to July 1, 2010.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and the section changed is being republished following this notice. The Department amended the pending rule with the same revisions that have been made in the amendment to the temporary rule. The amendment to the temporary rule was published in the September 6, 2006, Idaho Administrative Bulletin, Vol. 06-9, pages 85 through 87. Only the Section that has changes different from the original temporary and proposed text is printed in this bulletin. The complete original text of the temporary and proposed rule was published in the August, 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 504 through 512.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking has no fiscal impact on Medicaid costs or the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Randy May at (208) 334-5747.

DATED this 3rd day of November, 2006.

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DOCKET NO. 16-0322-0601 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 504 through 512.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0322-0601

Subsection 152.05.h.

152. ADMISSION POLICIES.

05. Policies of Acceptable Admissions. Written descriptions of the conditions for admitting residents to the facility must include: (3-30-06)

h. Until July 1, 2007~~10~~, Waivered Level 3 Small Facilities will be exempt from complying with the requirements under Subsection 152.05.g. of this rule, including the requirement to have at least a residential fire sprinkler system. On July 1, 2007~~10~~, all Waivered Level 3 Small Facilities that admit or retain residents who are incapable of self-evacuation will be required to comply with the requirements under Subsection 152.05.g. of this rule. This includes being equipped with at least an operable residential fire sprinkler system. Any facility sold prior to July 1, 2007~~10~~, must meet the requirements under Subsection 403.03 of these rules before a new license will be issued. (7-1-06)F(____)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.11 - DEVELOPMENTAL DISABILITIES AGENCIES

DOCKET NO. 16-0411-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-4601 et seq., Idaho Code; also Sections 56-202(b) and 56-203(g), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 513 through 516.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cameron Gilliland at (208) 334-5536.

DATED this 3rd day of November, 2006.

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DOCKET NO. 16-0411-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 513 through 516.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.05.06 - RULES GOVERNING MANDATORY CRIMINAL HISTORY CHECKS
DOCKET NO. 16-0506-0601 (CHAPTER REPEAL)
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-203(b), 56-204A, 56-1004(A), 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-1213, 39-3520, and 39-5604, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Legislature has given the Department the responsibility to protect children and vulnerable adults who are at risk of being harmed by individuals who have criminal convictions, offenses, or have substantiated abuse or neglect cases against them. In order to meet this responsibility, the Department needs to revise and update its rules. This chapter of rules is being repealed and rewritten in Docket 16-0506-0602 to meet those requirements and to comply with SB 1327 passed by the 2006 Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To protect the public health, safety and welfare of the vulnerable adults and children in Idaho.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Criminal history checks cost the applicant a fee that under statute is required to be paid by the applicant.

The fee amount is being published in the rewrite of this chapter, under Docket 16-0506-0602 published in this bulletin. The 2006 Legislature enacted Section 56-1004A, Idaho Code, that requires an applicant to be responsible for the cost of a criminal history and background check. This temporary fee rule will define the actual cost and require applicants to pay for the criminal history and background checks.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The Department currently charges \$45.00 which does not cover the Department's costs. The difference is made up by general fund money. The Department has implemented new systems to increase the efficiency of processing background checks which reduces the administrative processing costs, however a study of background checks revealed the Department's current cost per check is \$48.00. It is anticipated this will result in a cost savings of \$22,900 with a general fund savings of \$11,450 for the fiscal year 2007. This fiscal impact for the repeal of the chapter is the same as Docket 16-0506-0602 published in this bulletin.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 7, 2006, Vol. 06-6, page 104.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Mond Warren at (208) 334-5997.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before January 24, 2007.

DATED this 3rd day of November, 2006.

Sherri Kovach
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IDAPA 16.05.06 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-0602 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2007.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-203(b), 56-204A, 56-1004(A), 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, and 39-5604, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rule making for this rewritten chapter of rules:

The Legislature has given the Department the responsibility to protect children and vulnerable adults who are at risk of being harmed by individuals who have criminal convictions, offenses, or have substantiated abuse or neglect cases against them. In order to meet this responsibility, the Department requires criminal history and background checks for certain types of providers, certification and licensure applicants, and adoptive and foster care homes. This chapter is being rewritten to provide clearer requirements for applicants, employers, contractors, and providers on how the results of these checks may be used and distributed. The list of disqualifying crimes is being amended to add crimes or offenses not currently in the rules and amend the length of time for disqualification for certain crimes. The rules will also address the online application and reporting systems implemented by the Department for processing criminal history and background checks.

The rewritten chapter of rules will:

1. Comply with Idaho law amended in 2006 relating to the costs and fees for criminal history and background checks;
2. Update requirements for new technology that is used to process fingerprints and online applications;
3. Clarify when an individual is able to provide care or services for an employer;
4. Clarify when an applicant for certification and licensure receives a clearance;
5. Amend and add disqualifying crimes, offenses, and the length of time that results in a denial or clearance;
6. Add requirements for the disposition of the criminal history and background check results;
7. Amend and update the list of individuals required to comply with this chapter of rules; and
8. Remove obsolete language and add requirements to meet the Administrative Procedures Act.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To protect the public health, safety and welfare of the vulnerable adults and children in Idaho.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

The 2006 Legislature enacted Section 56-1004A, Idaho Code, that requires an applicant to be responsible for the cost of a criminal history and background check. This temporary fee rule will define the actual cost and require applicants to pay for the criminal history and background checks.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The Department currently charges \$45.00 which does not cover the Department's costs. The difference is made up by general fund money. The Department has implemented new systems to increase the efficiency of processing background checks which reduces the administrative processing costs, however a study of background checks revealed the Department's current cost per check is \$48.00. It is anticipated this will result in a cost savings of \$22,900 with a general fund savings of \$11,450 for the fiscal year 2007.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 7, 2006, Vol. 06-6, page 104.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Mond Warren at (208) 334-5997.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before January 24, 2007.

DATED this 3rd day of November, 2006.

Sherri Kovach, Program Supervisor
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0506-0602

**IDAPA 16
TITLE 05
CHAPTER 06**

000. LEGAL AUTHORITY.

The Idaho Legislature has authorized the Department of Health and Welfare to promulgate rules to conduct criminal history and background checks under Sections 56-202(b), 56-203(b), 56-204A, 56-1004(A), 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520 and 39-5604, Idaho Code. (1-1-07)T

001. TITLE, SCOPE AND POLICY.

01. Title. The title of this chapter is IDAPA 16.05.06, "Criminal History and Background Checks." (1-1-07)T

02. Scope. These rules assist the Department in the protection of children and vulnerable adults by providing requirements to conduct criminal history and background checks of individuals licensed or certified by the Department, or who provide care or services to vulnerable adults or children. Individuals requiring a criminal history check are identified in Department rules. (1-1-07)T

03. Policy. It is the Department's policy to conduct fingerprint-based criminal history and background

checks on individuals who have completed a criminal history application. The criminal history applicant is required to disclose any pertinent information of crimes or offenses that would disqualify the individual from providing care or services to vulnerable populations. The Department obtains information for these criminal history and background checks from the following sources: (1-1-07)T

- a. Federal Bureau of Investigation; (1-1-07)T
- b. National Crime Information Center; (1-1-07)T
- c. Idaho State Police Bureau of Criminal Identification; (1-1-07)T
- d. Idaho Child Protection Central Registry; (1-1-07)T
- e. Idaho Adult Protection Registry; (1-1-07)T
- f. Sexual Offender Registry; (1-1-07)T
- g. Office of Inspector General List of Excluded Individuals and Entities; (1-1-07)T
- h. Idaho Department of Transportation Driving Records; (1-1-07)T
- i. Nurse Aide Registry; (1-1-07)T
- j. Other states and jurisdiction records and findings. (1-1-07)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations associated with this chapter of rules. (1-1-07)T

003. ADMINISTRATIVE APPEALS.

01. Appeals. Appeals and proceedings are governed by IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (1-1-07)T

02. Appeal of FBI Records. If an individual believes that the records received through the FBI are incorrect, the individual has fifteen (15) days from the receipt of the denial to correct the FBI records according to 28 CFR Section 16.34 or other federal regulations. (1-1-07)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter of rules. (1-1-07)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (1-1-07)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (1-1-07)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (1-1-07)T

04. Telephone. (208) 334-5500. (1-1-07)T

05. Department Internet Website Address. Department Internet address is: <http://www.healthandwelfare.idaho.gov>. (1-1-07)T

- 06. Criminal History Unit.** The Criminal History Unit may be contacted as listed below: (1-1-07)T
- a.** Address: 3268 Elder Street, Boise, ID 83705; (1-1-07)T
 - b.** Phone: (208) 332-7990, Toll Free: 1-800-340-1246, FAX: (208) 332-7991; (1-1-07)T
 - c.** Website: <https://chu.dhw.idaho.gov>. (1-1-07)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in Department records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (1-1-07)T

02. Federal Bureau of Investigation Records. Any information received from the FBI must comply with 28 CFR 50.12 or other federal regulations. (1-1-07)T

03. Idaho State Police Records. Any information received from the Idaho State Police must comply with Section 67-3008, Idaho Code. (1-1-07)T

04. Public Records Requests. The Department of Health and Welfare will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempt, as provided in Section 9-340, Idaho Code, and other state and federal laws and regulations, all public records in the custody of the Department of Health and Welfare are subject to disclosure. (1-1-07)T

007. -- 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.

01. Application. An individual's request for a criminal history and background check in which the individual discloses any convictions, pending charges, or child or adult protection findings, and authorizes the Department to obtain information from available databases and sources relating to the individual. (1-1-07)T

02. Clearance. A clearance issued by the Department once the criminal history and background check is completed and no disqualifying crimes or relevant records are found. (1-1-07)T

03. Conviction. An individual is considered to have been convicted of a criminal offense as defined in Subsections 010.03.a. through 010.03.d. of this rule: (1-1-07)T

a. When a judgment of conviction, or an adjudication, has been entered against the individual by any federal, state, military, or local court; (1-1-07)T

b. When there has been a finding of guilt against the individual by any federal, state, military, or local court; (1-1-07)T

c. When a plea of guilty or nolo contendere by the individual has been accepted by any federal, state, military, or local court; (1-1-07)T

d. When the individual has entered into or participated in first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld. This includes: (1-1-07)T

i. When the individual has entered into participation in a drug court; or (1-1-07)T

ii. When the individual has entered into participation in a mental health court. (1-1-07)T

04. Criminal History and Background Check. A criminal history and background check is a fingerprint-based check of an individual's criminal record and other relevant records to determine the suitability of the individual to provide care or services to vulnerable adults or children. (1-1-07)T

05. Criminal History Unit. The Department's Unit responsible for processing fingerprint-based criminal history and background checks, conducting exemption reviews, and issuing clearances or denials according to these rules. (1-1-07)T

06. Denial. A denial is issued by the Department when an individual has a relevant record or disqualifying crime. There are two (2) types of denials: (1-1-07)T

a. Conditional Denial. A denial of an applicant because of a relevant record found in Section 230 of these rules. (1-1-07)T

b. Unconditional Denial. A denial of an applicant because of a conviction for a disqualifying crime found in Section 210 of these rules. (1-1-07)T

07. Department. The Idaho Department of Health and Welfare or its designee. (1-1-07)T

08. Disqualifying Crime. A disqualifying crime is a designated crime listed in Section 210 of these rules that results in the unconditional denial of an applicant. (1-1-07)T

09. Exemption Review. A review by the Department at the request of the applicant when a conditional denial has been issued. (1-1-07)T

10. Federal Bureau of Investigation (FBI). The federal agency where fingerprint-based criminal history and background checks are processed. (1-1-07)T

11. Good Cause. The facts and circumstances that would compel a reasonably prudent person to act in the same or similar manner under the same or similar circumstances. (1-1-07)T

12. Idaho State Police Bureau of Criminal Identification. The state agency where fingerprint-based criminal history and background checks are processed. (1-1-07)T

13. Relevant Record. A relevant record is a record that is from criminal records or from registries checked by the Department as provided in Section 56-1004A, Idaho Code, that may result in a conditional denial. (1-1-07)T

011. -- 049. (RESERVED).

050. FEES AND COSTS FOR CRIMINAL HISTORY AND BACKGROUND CHECKS.

The fee for a Department fingerprint-based criminal history and background check is forty-eight dollars (\$48) for an individual. The applicant is responsible for the cost of the criminal history and background check except where otherwise provided by Department rules. (1-1-07)T

051. -- 059. (RESERVED).

060. EMPLOYER REGISTRATION.

Employers required to have Department criminal history and background checks on their employees, contractors, or staff must register with the Department and receive an employer identification number before criminal history and background check applications can be processed. (1-1-07)T

061. EMPLOYER RESPONSIBILITIES.

The criminal history and background check clearance is not a determination of suitability for employment. The Department's criminal history and background check clearance means that an individual was found to have no disqualifying crime or relevant record. Employers are responsible for determining the individual's suitability for employment as described in Subsections 061.01 through 061.03 of these rules. (1-1-07)T

01. Screen Applicants. The employer should screen applicants prior to initiating a criminal history and background check in determining the suitability of the applicant for employment. If an applicant discloses a

disqualifying crime or offense, or discloses other information that would indicate a risk to the health and safety of children and vulnerable adults, a determination of suitability for employment should be made during the initial application screening. (1-1-07)T

02. Ensure Time Frames Are Met. The employer is responsible to ensure that the required time frames are met for completion and submission of the application and fingerprints to the Department as required in Section 150 of these rules. (1-1-07)T

03. Employment Determination. The employer is responsible for reviewing the results of the criminal history and background check if a clearance that resulted in no disqualifying crimes or offenses found is issued by the Department. The employer must then make a determination as to the ability or risk of the individual to provide care or services to children or vulnerable adults. (1-1-07)T

062. -- 069. (RESERVED).

070. NON-COMPLIANCE WITH THESE RULES.

The Department will report an individual's or an employer's non-compliance with these rules to the applicable licensing or certification unit. (1-1-07)T

071. -- 099. (RESERVED).

100. INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.

Individuals subject to a Department criminal history and background check are those persons or classes of individuals who are required by statute, or program rules to complete a criminal history and background check. (1-1-07)T

01. Adoptive Parent Applicants. All persons applying to the Department or petitioning the court to be an adoptive parent and all adults in the home, except stepparents applying for adoption of a stepchild, as described in IDAPA 16.06.01 "Rules Governing Family and Children's Services." (1-1-07)T

02. Adult Day Care Providers. Providers of adult day care and all adults in the home, if provided in a private residence as required by IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 009 and 705. (1-1-07)T

03. Alcohol or Drug Abuse Prevention and Treatment Programs Serving Children. Staff who have contact with adolescents in any alcohol/drug abuse treatment program which provides treatment for persons under the age of eighteen (18) as required by IDAPA 16.06.03, "Rules and Minimum Standards Governing Alcohol/Drug Abuse Prevention and Treatment Programs," Section 020. (1-1-07)T

04. Certified Family Homes. Certified family home providers, all adults in the home, and substitute caregivers as required in Section 39-3520, Idaho Code, and IDAPA 16.03.19, "Rules Governing Certified Family Homes," Sections 009, 101 and 300, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 009. (1-1-07)T

05. Children's Residential Care Facilities. Owners, operators, and employees of all children's residential care facilities as required in Section 39-1210, Idaho Code. (1-1-07)T

06. Children's Therapeutic Outdoor Programs. Staff, volunteers, and interns working in Children's Therapeutic Outdoor Programs as defined in IDAPA 16.06.02, "Standards for Child Care Licensing," Section 810. (1-1-07)T

07. Commercial Non-Emergency Transportation Providers. Staff of commercial non-emergency transportation providers who have contact with participants as required in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 009. (1-1-07)T

08. Developmental Disabilities Agencies. Employees of developmental disabilities agencies as required in IDAPA 16.04.11, "Rules Governing Developmental Disabilities Agencies," Section 009, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 009. (1-1-07)T

09. Emergency Medical Services (EMS). Applicants for EMS certification as required in IDAPA 16.02.03, "Rules Governing Emergency Medical Services," Section 501. (1-1-07)T

10. Licensed Foster Care. All foster care applicants and other adult members of the household as required in Section 39-1211, Idaho Code, and IDAPA 16.06.02, "Standards for Child Care Licensing," Section 404. (1-1-07)T

11. Licensed Child Care. Applicants, owners, operators, employees, volunteers, and those over twelve (12) years of age who have unsupervised direct contact with the children of day care centers, group day care facilities and family day care homes as required in Section 39-1105, Idaho Code, and IDAPA 16.06.02, "Standards for Child Care Licensing," Section 300. (1-1-07)T

12. Mental Health Clinics. Mental health clinic's direct care staff as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 009 and IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 009 and 714. (1-1-07)T

13. Personal Assistance Agencies. Staff of personal assistance agencies acting as fiscal intermediaries as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 009. (1-1-07)T

14. Personal Care Service Providers. Providers of personal care services as required in Section 39-5604, Idaho Code, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 009. (1-1-07)T

15. Psychosocial Rehabilitation Providers. Individuals providing psychosocial rehabilitation services as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 009 and 130. (1-1-07)T

16. Residential Habilitation Providers. Residential habilitation providers as required in IDAPA 16.04.17 "Rules Governing Residential Habilitation Agencies," Sections 202 and 301, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 009 and 705. (1-1-07)T

17. Service Coordinators and Paraprofessional Providers. Service coordinators and paraprofessionals working for an agency as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 009. (1-1-07)T

18. Support Brokers and Community Support Workers. Support brokers and community support workers, as required in IDAPA 16.03.13, "Self-Directed Services," Section 009. (1-1-07)T

19. Long-Term Care Pilot Project Providers. Providers, employees, and contractors of long-term care facilities as required in IDAPA 16.05.05 "Criminal History and Background Checks in Long-Term Care Settings." The long-term care pilot project expires September 30, 2007. (1-1-07)T

101. DEPARTMENT INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.

The following Department employees and contractors are subject to criminal history and background checks. (1-1-07)T

01. Employees and Contractors. Employees and contractors providing direct care services or who have access to children or vulnerable adults as defined in Section 39-5302(10), Idaho Code. (1-1-07)T

02. Employees of Bureau of Audits and Investigations. (1-1-07)T

a. Fraud Investigators; (1-1-07)T

b. Utilization Review Analysts; and (1-1-07)T

c. Criminal History Staff. (1-1-07)T

- 03. Employees at State Institutions.** All employees of the following state funded institutions; (1-1-07)T
- a.** Idaho State School and Hospital, Nampa, Idaho; (1-1-07)T
 - b.** State Hospital North, Orofino, Idaho; and (1-1-07)T
 - c.** State Hospital South, Blackfoot, Idaho. (1-1-07)T
- 04. Emergency Medical Services (EMS) Employees.** EMS communication specialists and managers. (1-1-07)T
- 05. Other Employees.** Other Department employees as determined by the Director. (1-1-07)T

102. -- 119. (RESERVED).

120. APPLICATION FOR A CRIMINAL HISTORY AND BACKGROUND CHECK.

Individuals who are subject to a criminal history and background check must complete an application and have it notarized. The application must include disclosure of any disqualifying crimes, offenses, or relevant records.

(1-1-07)T

01. Application Form. The applicant must request a criminal history and background check by completing the Department's application form and submitting it on-line or by mail. The individual's application authorizes the Department to obtain information and release it as required in accordance with applicable state and federal law. The following information is required to complete the application: (1-1-07)T

- a.** Name, current and former names, or aliases; (1-1-07)T
- b.** Address; (1-1-07)T
- c.** Date of birth, that appears on a valid identification document issued by a governmental entity, (1-1-07)T
- d.** State and country of birth; and (1-1-07)T
- e.** Driver's license number, if licensed, state where licensed, and whether a license has ever been revoked or suspended. (1-1-07)T
- f.** Other identifying information, including gender, race, height, weight, eye color, and hair color; (1-1-07)T
- g.** Employer information; (1-1-07)T
- h.** Any criminal record or criminal offense information; (1-1-07)T
- i.** Any pending charges or outstanding warrants; (1-1-07)T
- j.** Any child or adult protection involvement; (1-1-07)T
- k.** Any Medicare or Medicaid Provider Exclusion; and (1-1-07)T
- l.** Any other information requested on the application. (1-1-07)T

02. Disclosures. The individual must disclose any conviction, pending charges or indictment for crimes, and furnish a description of the crime and the particulars on the application. The individual must also disclose any notice by a state or local agency of substantiated child or substantiated vulnerable adult abuse, neglect, exploitation, or abandonment complaint, and any other information as required. (1-1-07)T

03. Failure to Disclose Information. An applicant who falsifies or fails to disclose information on the application, may be subject to a conditional denial under Section 230.01 and prosecution under Sections 18-3203, 18-5401, and 56-227A, Idaho Code. (1-1-07)T

121. -- 129. (RESERVED).

130. SUBMISSION OF APPLICATION.

An application must be submitted and received by the Department before a criminal history and background check can be initiated. Once the Department has received the notarized application and signed fingerprint card, the application is pending until the Department issues a clearance or denial, or the individual withdraws the application. An application must be submitted and received by the Department within twenty-one (21) days of it being completed and notarized. (1-1-07)T

01. Submitting an Application On-Line. An application may be submitted through the Criminal History Unit's website at <https://chu.dhw.idaho.gov>. Individuals who submit their application through the website may schedule a fingerprinting appointment at a Department location. At the fingerprinting appointment, the Department will print the application and notarize the individual's signature. (1-1-07)T

02. Submitting an Application by Mail. An individual may complete the application provided on the Department's website, print the application, have it notarized, and mail it to the Criminal History Unit with the signed fingerprint card and applicable fee. The application must be mailed to the nearest fingerprint location as found on the Department's website or contact the Criminal History Unit as described in Section 005 of these rules. (1-1-07)T

131. -- 139. (RESERVED).

140. SUBMISSION OF FINGERPRINTS.

The Department's criminal history and background check is a fingerprint-based check. Ten (10) rolled fingerprints must be collected from the individual and submitted to the Department within the time frame for submitting applications as provided in Section 150 of these rules in order for a criminal history and background check request to be processed. (1-1-07)T

01. Department Fingerprinting Locations. A fingerprint appointment may be scheduled at designated Department locations where the Department will collect the individual's fingerprints. The locations are listed on the Department's website, or you may contact the Criminal History Unit as described in Section 005 of these rules. (1-1-07)T

02. Submitting Fingerprints by Mail. An individual may elect to have fingerprints collected by a local law enforcement agency or by the applicant's employer. The fingerprint card must be signed and mailed with the completed notarized application and applicable fee to the nearest fingerprinting location. (1-1-07)T

141. -- 149. (RESERVED).

150. TIME FRAME FOR SUBMITTING APPLICATION AND FINGERPRINTS.

The completed notarized application and fingerprints must be submitted and received by the Department within twenty-one (21) days. The applicant is not available to provide services or be licensed or certified when the notarized application is not received or the fingerprints have not been rolled for an on-line application within this time frame. The criminal history and background check is incomplete and will not be processed by the Department if this time frame is not met. (1-1-07)T

151. -- 159. (RESERVED).

160. WITHDRAWAL OF APPLICATION.

An individual may withdraw his application for a criminal history and background check at any time. An individual who withdraws his application cannot provide services, or receive licensure or certification. Fees paid for the cost of the criminal history and background check are non-refundable once the fingerprints have been submitted by the Department to the Idaho State Police. (1-1-07)T

161. -- 169. (RESERVED).

170. AVAILABILITY TO PROVIDE SERVICES PENDING COMPLETION OF THE CRIMINAL HISTORY AND BACKGROUND CHECK.

An individual is available to provide services pending completion of the criminal history and background check as described in Subsections 170.01 and 170.02 of this rule. The application and fingerprinting must be completed in the time frame described in Section 150 of these rules. (1-1-07)T

01. Employees of Providers, Contractors or the Department. An individual is available to provide services on a provisional basis at the discretion of the employer as long as no disqualifying crimes or relevant records are disclosed on the application. The employer must review the application for any disqualifying crimes listed in Section 210 of these rules or other relevant records listed in Section 230 of these rules. The employer then determines whether the applicant poses a health or safety risk to vulnerable clients before allowing the individual to provide services until a clearance or denial is issued by the Department. (1-1-07)T

02. Individuals Licensed or Certified by the Department. Individuals applying for licensure or certification by the Department are not available to provide services or receive licensure or certification until the criminal history and background check is complete and a clearance is issued by the Department. The following are individuals required to have a clearance prior to providing services: (1-1-07)T

- a.** Adoption or foster care applicants and adults in the home; (1-1-07)T
- b.** Certification or licensure applicants; (1-1-07)T
 - i.** Certified family homes; (1-1-07)T
 - ii.** Emergency Medical Services applicants and employees; (1-1-07)T
 - iii.** Licensed child care providers; (1-1-07)T

171. -- 179. (RESERVED).

180. CRIMINAL HISTORY AND BACKGROUND CHECK RESULTS.

The Department will issue a clearance or denial once the criminal history and background check is completed. The results may be accessed by the individual on the Department's website. The employer may access the information that is provided by the applicant and information obtained from the state, county, or through registries. (1-1-07)T

181. APPLICATION STATUS.

An individual and his employer may check on the criminal history and background check status and the individual's availability to work on the Department website: <https://chu.dhw.idaho.gov>. (1-1-07)T

182. -- 189. (RESERVED).

190. CRIMINAL HISTORY AND BACKGROUND CHECK CLEARANCE.

A criminal history and background check clearance is issued by the Department once all relevant records and findings have been reviewed and the Department has cleared the applicant. The clearance will be published on the Department's website and the individual or his employer may print copies of the clearance. (1-1-07)T

191. -- 199. (RESERVED).

200. UNCONDITIONAL DENIAL.

The Department will issue an unconditional denial within fourteen (14) days of the completion of a criminal history and background check. An individual who receives an unconditional denial is not available to provide services or to be licensed or certified by the Department. (1-1-07)T

01. Reasons for an Unconditional Denial Issuance. Unconditional denials are issued for

disqualifying crimes described in Section 210 of these rules. (1-1-07)T

02. Final Order. An unconditional denial is a final order under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," Section 152. No exemption review is allowed for an unconditional denial. (1-1-07)T

03. Unconditional Denial Appeal. An appeal of an unconditional denial must be filed in District Court. (1-1-07)T

201. -- 209. (RESERVED).

210. DISQUALIFYING CRIMES RESULTING IN AN UNCONDITIONAL DENIAL.

An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a conviction for a disqualifying crime on his record as described in Subsections 210.01 and 210.02 of this rule. (1-1-07)T

01. Disqualifying Crimes. The disqualifying crimes described in Subsections 210.01.a through 210.01.v. of these rules will result in an unconditional denial being issued. (1-1-07)T

- a.** Abuse, neglect, or exploitation of a vulnerable adult, as defined in Section 18-1505, Idaho Code; (1-1-07)T
- b.** Aggravated, first-degree and second-degree arson, as defined in Sections 18-801 through 18-803, and 18-805, Idaho Code; (1-1-07)T
- c.** Crimes against nature, as defined in Section 18-6605, Idaho Code; (1-1-07)T
- d.** Forcible sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho Code; (1-1-07)T
- e.** Incest, as defined in Section 18-6602, Idaho Code; (1-1-07)T
- f.** Injury to a child, felony or misdemeanor, as defined in Section 18-1501, Idaho Code; (1-1-07)T
- g.** Kidnapping, as defined in Sections 18-4501 through 18-4503, Idaho Code; (1-1-07)T
- h.** Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code; (1-1-07)T
- i.** Mayhem, as defined in Section 18-5001, Idaho Code; (1-1-07)T
- j.** Murder in any degree, voluntary manslaughter, assault, or battery with intent to commit a serious felony, as defined in Sections 18-4001, 18-4003, 18-4006, and 18-4015, Idaho Code; (1-1-07)T
- k.** Poisoning, as defined in Sections 18-4014 and 18-5501, Idaho Code; (1-1-07)T
- l.** Possession of sexually exploitative material, as defined in Section 18-1507A, Idaho Code; (1-1-07)T
- m.** Rape, as defined in Section 18-6101, Idaho Code; (1-1-07)T
- n.** Robbery, as defined in Section 18-6501, Idaho Code; (1-1-07)T
- o.** Felony stalking, as defined in Section 18-7905, Idaho Code; (1-1-07)T
- p.** Sale or barter of a child, as defined in Section 18-1511, Idaho Code; (1-1-07)T
- q.** Sexual abuse or exploitation of a child, as defined in Sections 18-1506 and 18-1507, Idaho Code;

- (1-1-07)T
 - r. Video voyeurism, as defined in Section 18-6609, Idaho Code; (1-1-07)T
 - s. Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code; (1-1-07)T
 - t. Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute, as defined in Sections 18-5609 and 18-5611, Idaho Code; (1-1-07)T
 - u. Any felony punishable by death or life imprisonment; or (1-1-07)T
 - v. Attempt, conspiracy, or accessory after the fact, as defined in Sections 18-205, 18-306, and 18-1701, Idaho Code, to commit any of the disqualifying designated crimes. (1-1-07)T
- 02. Disqualifying Five-Year Crimes.** The Department will issue an unconditional denial for an individual who has been convicted of the following crimes for five (5) years from the date of the conviction for the crimes listed in Subsections 210.02.a. through 210.02.l. of this rule: (1-1-07)T
- a. Aggravated assault, as defined in Section 18-905, Idaho Code; (1-1-07)T
 - b. Aggravated battery, as defined in Section 18-907(1), Idaho Code; (1-1-07)T
 - c. Arson in the third degree, as defined in Section 18-804, Idaho Code; (1-1-07)T
 - d. Burglary, as defined in Section 18-1401, Idaho Code; (1-1-07)T
 - e. A felony involving a controlled substance; (1-1-07)T
 - f. Felony theft, as defined in Section 18-2403, Idaho Code; (1-1-07)T
 - g. Forgery of and fraudulent use of a financial transaction card, as defined in Sections 18-3123 and 18-3124, Idaho Code; (1-1-07)T
 - h. Forgery and counterfeiting, as defined in Sections 18-3601 through 18-3620, Idaho Code; (1-1-07)T
 - i. Grand theft, as defined in Section 18-2407(1), Idaho Code; (1-1-07)T
 - j. Insurance fraud, as defined in Sections 41-293 and 41-294, Idaho Code; (1-1-07)T
 - k. Public assistance fraud, as defined in Sections 56-227 and 56-227A, Idaho Code; or (1-1-07)T
 - l. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, and 18-1701, Idaho Code, to commit any of the disqualifying five (5) year crimes. (1-1-07)T

211. -- 219. (RESERVED).

220. CONDITIONAL DENIAL.

The Department may issue a conditional denial within fourteen (14) days of the completion of a criminal history and background check. An individual who receives a conditional denial is not available to provide services or be licensed or certified by the Department. (1-1-07)T

01. Reasons for a Conditional Denial Issuance. A conditional denial is issued when the criminal history and background check reveals a relevant record as described in Section 230 of these rules. (1-1-07)T

02. Effective Date of a Conditional Denial. A conditional denial is effective immediately. An applicant may not reapply for a criminal history and background check for three (3) years from the date of the

conditional denial. (1-1-07)T

03. Request an Exemption Review. An individual may request an exemption review as described in Section 250 of these rules when a conditional denial has been issued. (1-1-07)T

221. -- 229. (RESERVED).

230. RELEVANT RECORDS RESULTING IN A CONDITIONAL DENIAL.

An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a relevant record on his record as described Subsections 230.01 and 230.02 of this rule. (1-1-07)T

01. Individuals Licensed or Certified by the Department or a Department Employee. A conditional denial may be issued when an individual who is licensed or certified by the Department, or who is a Department employee discloses, or the criminal history and background check reveals, a relevant record as defined in Subsections 230.01.a. through 230.01.f. of this rule: (1-1-07)T

a. A plea, finding, or adjudication of guilt to any felony or misdemeanor, or any crime other than a traffic violation, that does not result in a suspension of the individual's driver's license; (1-1-07)T

b. A substantiated child protection complaint or a substantiated adult protection complaint; (1-1-07)T

c. The Department determines there is a potential health and safety risk to vulnerable adults or children; (1-1-07)T

d. The individual has falsified or omitted information on the application form; (1-1-07)T

e. The individual is listed with a finding on the Nurse Aide Registry; or (1-1-07)T

f. The Department determines additional information is required. (1-1-07)T

02. Employees of Providers or Contractors. A conditional denial may be issued when an individual who is employed by a provider or contractor discloses, or the criminal history and background check reveals, a relevant record as defined in Subsections 230.02.a. through 230.01.c. of this rule. (1-1-07)T

a. A substantiated child protection complaint or a substantiated adult protection complaint; (1-1-07)T

b. The individual is listed with a finding on the Nurse Aide Registry; or (1-1-07)T

c. The Department determines additional information is required. (1-1-07)T

240. MEDICAID EXCLUSION.

Individuals subject to these rules, who are excluded by the Office of Inspector General, cannot provide Department funded services within the scope of these rules. At the expiration of the exclusion, the individual may reapply for a criminal history and background check. (1-1-07)T

241. -- 249. (RESERVED).

250. EXEMPTION REVIEWS.

An individual cannot request an exemption review for an unconditional denial. An individual may request an exemption review within fourteen (14) days from the date of the issuance of a conditional denial by the Department, unless good cause is shown for a delay. Once the Department receives the request for an exemption review, the Department will initiate a review for crimes or actions not designated in Section 210 of these rules. The review may consist of examining documents and supplemental information provided by the individual, a telephone interview, an in-person interview, or any other review the Department determines is necessary. Exemption reviews are governed and conducted as provided in Subsections 250.01 through 250.05 of this rule. (1-1-07)T

01. Scheduling an Exemption Review. Upon receipt of a request for an exemption review, the Department will determine the type of review and conduct the review within thirty (30) days from the date of the request. Where an in-person review is appropriate, the Department will provide the individual at least seven (7) days notice of the review date unless the time is waived by the individual. When an in-person review is scheduled, the individual is notified by the Department that he is able to bring witnesses and present evidence during the review.

(1-1-07)T

02. Factors Considered at the Exemption Review. The Department will consider the following factors or evidence during the exemption review:

(1-1-07)T

- a. The severity or nature of the crime or other findings; (1-1-07)T
- b. The period of time since the incident under review occurred; (1-1-07)T
- c. The number and pattern of incidents; (1-1-07)T
- d. Circumstances surrounding the incident that would help determine the risk of repetition; (1-1-07)T
- e. Relationship of the incident to the care of children or vulnerable adults; (1-1-07)T
- f. Activities since the incident, such as continuous employment, education, participation in treatment, payment of restitution, or any other factors that may be evidence of rehabilitation; (1-1-07)T
- g. Granting of a pardon by the Governor or the President; and (1-1-07)T
- h. The falsification or omission of information on the application form and other supplemental forms submitted. (1-1-07)T

03. Exemption Review Determination. The Department determines the individual's suitability based upon the information provided during the exemption review. The Department will issue a notice of decision within fifteen (15) business days of the close of the review.

(1-1-07)T

04. Exemption Review Decision Effective Dates. The Department's exemption review decision is effective for three (3) years from the date of the notice of decision.

(1-1-07)T

05. Exemption Review Appeal. Exemption reviews conducted under this section of rule may be appealed under IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings." The filing of a notice of appeal does not stay the action of the Department. The individual who files an appeal must establish that the Department's denial was arbitrary and capricious.

(1-1-07)T

251. -- 259. (RESERVED).

260. PREVIOUS EXEMPTION REVIEW DENIALS.

The individual's current request for a criminal history and background check for any Department program when there has been a denial from an exemption review within the last three (3) years will automatically be denied.

(1-1-07)T

261. -- 269. (RESERVED).

270. CRIMINAL ACTION PENDING.

When the applicant is identified as having a pending criminal action for a crime that may disqualify him from receiving a clearance for the criminal history and background check, the Department may issue a notice of inability to proceed. The applicant is not available to provide service when a notice of inability to proceed is issued by the Department. The applicant can submit documentation that the matter has been resolved to the Department for reconsideration. When the Department receives this documentation, the Department will notify the applicant of the reconsideration and issue a clearance or denial.

(1-1-07)T

271. -- 299. (RESERVED).

300. UPDATING CRIMINAL HISTORY AND BACKGROUND CHECKS.

The employer is responsible for confirming that the applicant has completed a criminal history and background check. (1-1-07)T

01. New Criminal History and Background Check. Any individual required to have a criminal history and background check under these rules must complete a new application, including fingerprints when: (1-1-07)T

- a. Accepting employment with a new employer; or (1-1-07)T
- b. Applying for licensure or certification with the Department; and (1-1-07)T
- c. His last Department criminal history and background check was completed more than three (3) years prior to his employment date or licensure application date. (1-1-07)T

02. Use of Criminal History Check Within Three Years of Completion. Any employer may use a Department criminal history and background check clearance obtained under these rules if: (1-1-07)T

- a. The individual has received a Department's criminal history and background check clearance within three (3) years from the date of employment; and (1-1-07)T
- b. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal identification, and no disqualifying crimes are found. (1-1-07)T

03. Employer Discretion. The new employer, at its discretion, may require an individual to complete a Department criminal history and background check at any time, even if the individual has received a criminal history and background check clearance within three (3) years. (1-1-07)T

04. Department Discretion. The Department may, at its discretion or as provided in program rules, require a criminal history and background check of any individual covered under these rules at any time during the individual's employment, internship, or while volunteering. Any individual required to complete a criminal history and background check under Sections 100 and 101 of these rules, must be fingerprinted within fourteen (14) days from the date of notification by the Department that a new criminal history and background check is required. (1-1-07)T

301. -- 349. (RESERVED).

350. CRIMINAL HISTORY AND BACKGROUND CHECK RECORDS.

Criminal history and background checks done under this chapter become the property of the Department and are held confidential. (1-1-07)T

01. Release of Criminal History and Background Check Records. A copy of the criminal history and background check as defined in Section 010 of these rules will be released: (1-1-07)T

- a. To the individual who has requested the criminal history and background check and upon receipt of a written request to the Department, provided the individual releases the state from all liability; (1-1-07)T
- b. In response to a subpoena issued by a court of competent jurisdiction; or (1-1-07)T
- c. As otherwise required by law. (1-1-07)T

02. Retention of Records. (1-1-07)T

a. If an exemption is granted, the criminal history and background record, supplemental documentation received, notes from the review, and the decision will be retained by the Department for a period of at

least five (5) years after the criminal history and background check is completed. (1-1-07)T

b. If an exemption is denied, the Department retains all records and electronic recordings pertaining to the review for five (5) years after the criminal history and background check is completed. (1-1-07)T

03. Use and Dissemination Restrictions for FBI Criminal Identification Records. According to the provisions under 28 CFR 50.12, the Department will: (1-1-07)T

a. Notify the individual fingerprinted that the fingerprints will be used to check the criminal history records of the FBI; (1-1-07)T

b. In determining the suitability for licensing or employment, provide the individual the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record; (1-1-07)T

c. Notify the individual that he has fifteen (15) days to correct or complete the FBI identification record or to decline to do so; and (1-1-07)T

d. Advise the individual who wishes to correct the FBI identification record that procedures for changing, correcting, or updating are provided in 28 CFR 16.34. (1-1-07)T

351. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.07 - INVESTIGATION AND ENFORCEMENT OF FRAUD, ABUSE, AND MISCONDUCT

DOCKET NO. 16-0507-0601

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2006. This pending rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 56-202(b), 56-203(a) and (b), 56-209, 56-209h, 56-227, 56-227A through D, 56-1001, and 56-1003, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The changes to this chapter of rules:

1. Clarify that there are no written interpretations for this chapter of rules;
2. Replace the term "recipient" with the term "participant" to make language consistent with other Department rules; and
3. Add the phrase "The provider" in the provider agreement section for clarity.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Vol. 06-8, pages 517 through 526.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To protect the public health, safety or welfare.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. There is no anticipated fiscal impact for this rule promulgation.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Mond Warren at (208) 334-5997.

DATED this 6th day of November, 2006.

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DOCKET NO. 16-0507-0601 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 517 through 526.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET 16-0507-0601

Subsections 001.02 and 001.03

001. TITLE, SCOPE AND POLICY.

02. Scope. This chapter is intended to protect the integrity of the public assistance programs by identifying instances of fraud, abuse, and other misconduct by providers and their employees, ~~recipients~~ *participants*, and by providing that appropriate action is taken to correct the problem. ~~(7-1-06)F(7-1-06)T~~

03. Policy. Action will be taken to protect both program ~~recipients~~ *participants* and the financial resources of the public assistance programs. Where minimum federal requirements are exceeded, it is the Department's intent to provide additional protections. Nothing contained within this chapter shall be construed to limit the Department from taking any other action authorized by law, including seeking damages under Section 56-227B, Idaho Code. ~~(7-1-06)F(7-1-06)T~~

Section 002 - Entire Section

002. WRITTEN INTERPRETATIONS.

~~In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 005 and 006 of these rules. The Department has no written interpretations that apply to this chapter of rule according to Section 67-5201(19)(b)(iv), Idaho Code.~~ ~~(7-1-06)F(7-1-06)T~~

Section 235 - Entire Section

235. CIVIL MONETARY PENALTIES.

Under Section 56-209h, Idaho Code, the Department may assess civil monetary penalties against a provider, any officer, director, owner, and managing employee for conduct identified in Subsections ~~211230.01~~ through ~~211230.09~~ of these rules. The amount of penalties may be up to one thousand dollars (\$1,000) for each item or service improperly claimed, except that in the case of multiple penalties the Department may reduce the penalties to not less than twenty-five percent (25%) of the amount of each item or service improperly claimed if an amount can be readily

determined. Each line item of a claim, or cost on a cost report is considered a separate claim. These penalties are intended to be remedial, at a minimum recovering costs of investigation and administrative review, and placing the costs associated with non-compliance on the offending provider. ~~(7-1-06)F~~(7-1-06)T

Subsection 260.03

260. AGGRAVATING FACTORS.

For purposes of lengthening the period of mandatory exclusions and permissive exclusions from the Medicaid program, the following factors may be considered. This is not intended to be an exhaustive list of factors which may be considered: (7-1-06)T

03. **Adverse Impact.** The acts had a significant adverse physical, mental or financial impact on one (1) or more program ~~recipients~~ participants or other individuals. ~~(7-1-06)F~~(7-1-06)T

Section 265 - Entire Section

265. REFUSAL TO ENTER INTO AN AGREEMENT.

The Department may refuse to enter into a provider agreement for the reasons described in Subsections 265.01 through 265.05 of this rule. (7-1-06)T

01. **Convicted of a Felony.** The provider has been convicted of a felony under federal or state law; ~~or~~ ~~(7-1-06)F~~(7-1-06)T

02. **Committed an Offense or Act Not in Best Interest of Medicaid ~~Recipients~~ Participants.** The provider has committed an offense or act which the Department determines is inconsistent with the best interests of Medicaid ~~recipients~~; ~~or~~ participants. ~~(7-1-06)F~~(7-1-06)T

03. **Failed to Repay.** The provider has failed to repay the Department monies which had been previously determined to have been owed to the Department; ~~or~~ ~~(7-1-06)F~~(7-1-06)T

04. **Investigation Pending.** The provider has a pending investigation for program fraud or abuse; ~~or~~ ~~(7-1-06)F~~(7-1-06)T

05. **Terminated Provider Agreement.** The provider was the managing employee, officer, or owner of an entity whose provider agreement was terminated under Section 230 of these rules. ~~(7-1-06)F~~(7-1-06)T

Section 280 - Entire Section

280. PROVIDER NOTIFICATION.

When the Department determines actions defined in Sections ~~205~~ 200 through ~~247~~ 250 of these rules are appropriate, it will send written notice of the decision to the provider or person. The notice will state the basis for the action, the length of the action, the effect of the action on that person's ability to provide services under state and federal programs, and the person's appeal rights. ~~(7-1-06)F~~(7-1-06)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES

DOCKET NO. 16-0601-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-203B, 56-204A, 56-803, 56-1003, 56-1004, and 56-1004A, Idaho Code; and Title 56, Chapter 8, Idaho Code - regarding "Hard-to-Place Children."

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 259 through 287.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: The changes to the out-of-state placement rules will result in savings in travel expenses of approximately \$50,000 per year, for workers to visit children placed out of state. To estimate the impact to the state general fund for adoption and guardianship assistance rule changes, it was determined that there are five children who would be impacted in the 2005-2006 State Fiscal Year who would not qualify under this rule change. The total annual general fund expenditures for these children is approximately \$15,000 per year.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathy Morris at (208) 334-5706.

DATED this 3rd day of November, 2006.

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DOCKET NO. 16-0601-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 259 through 287.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.02 - RULES GOVERNING CHILD CARE LICENSING

DOCKET NO. 16-0602-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The changes to the proposed text are being made to clarify that a licensed foster home with pools, hot tubs, ponds and other bodies of water must provide appropriate adult supervision consistent with the child's age, physical ability, and developmental level.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 288 through 297.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathy Morris at (208) 334-5706.

DATED this 17th day of November, 2006.

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DOCKET NO. 16-0602-0601 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 288 through 297.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET 16-0602-0601

Subsection 430.01.a.

430. CHILD CARE AND SAFETY REQUIREMENTS.

The property, structure, premises, and furnishings of a foster home ~~shall~~ must be constructed and maintained in good repair, in a clean condition, ~~and~~ free from safety hazards and dangerous machinery and equipment ~~accessible to children~~. Areas and equipment that present a hazard to children ~~in care shall be fenced~~ must not be accessible by children. (3-30-01)()

01. Pools, Hot Tubs, Ponds, and Other Bodies of Water. Any licensed foster home with a body of water on or adjacent to their property must provide the following safeguards: ()

a. Around any body of water, a foster child must have appropriate adult supervision consistent with the child's age, physical ability, and developmental level; ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.04 - RULES FOR STATEWIDE AND REGIONAL INTERDEPARTMENTAL SUBSTANCE ABUSE COORDINATING COMMITTEES

DOCKET NO. 16-0604-0601 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Chapter 3, Title 39, Idaho Code and HB833 (2006) amending this chapter of Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 6, 2006, Idaho Administrative Bulletin, Vol. 06-9, page 95.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: The repeal of this chapter of rule by itself does not create a fiscal impact; however, the amendments to Idaho Code found in HB833 do create a fiscal impact. The Department of Health and Welfare determined an estimated fiscal impact to the Department of \$14,500. This amount is being redirected from existing funds that were being used for other costs associated with substance abuse issues. In addition to the cost for Health and Welfare, it is estimated that the partnering agencies would incur a cost of approximately \$75,000 annually. This cumulative amount will come from existing funds since no additional funding has been provided. All identified funds in this fiscal impact are general funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Bethany Gadzinski at (208) 334-5756.

DATED this 3rd day of November, 2006.

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DOCKET NO. 16-0604-0601 - ADOPTION OF PENDING RULE

This chapter is being repealed in its entirety.

There are no substantive changes from the proposed rule text.

**The complete text of the proposed rule was published in the Idaho Administrative
Bulletin, Volume 06-9, September 6, 2006, page 95.**

**This rule has been adopted as a pending rule by the Agency and is now pending
review and approval by the 2007 Idaho State Legislature as a final rule.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.06 - DEVELOPMENTAL DISABILITIES FAMILY SUPPORT AND IN-HOME ASSISTANCE

DOCKET NO. 16-0606-0601

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b) and 39-5103, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The amendments to the pending rule clarify the definition of the term “family,” clarify and further streamline the grievance process, and add one additional reason for termination of Family Support assistance. Changes were based on input received during the public comment period. Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 298 through 305.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cameron Gilliland at (208) 334-5536.

DATED this 6th day of November, 2006.

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DOCKET NO. 16-0606-0601 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 298 through 305.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0606-0601

Subsection 010.07

010. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: ()

07. Family. The term "family" does not include paid providers of care *or providers of foster care*. A family, as defined in Section 39-5102(6), Idaho Code, is a group of interdependent persons residing in the same household and includes an individual with a developmental disability and one (1) or more of the following: ()

Section 025 - Entire Section

025. GRIEVANCE PROCEDURE.

01. How Does a Family File a Grievance? Families who wish to file a grievance regarding a benefit decision must do so within thirty (30) days of receiving the decision. To file a grievance, families must submit a written request that outlines their reasoning to one (1) of the following: ()

- a. A DD Family Support Council, where available; ()
- b. The Regional Program Manager; or ()
- c. The Department's Central Office Program Manager. ()

02. How is the Grievance Request Reviewed? ()

- a. The grievance request will be reviewed by the local DD Family Support Council, where available. ()
- b. If a DD Family Support Council is not available, or if a family disagrees with the decision of the DD Family Support Council, they may present a written grievance request to the Regional Program Manager. ()
- c. The Regional Program Manager will then *contact the FACS Central Office Program Manager and two (2) individuals from the region* to assist him with his review of the grievance. The two (2) individuals *from the region* selected by the *Regional* Program Manager may include members of the local DD Family Support Council, where available, or staff members with expertise in DD Family Support or Developmental Disabilities. *The Regional*

Program Manager will issue a written decision regarding the grievance request within twenty (20) days after the grievance request was received. ()

d. The Regional Program Manager will render a written decision on the grievance request within twenty (20) days of receiving the grievance. ()

03. What Other Remedies are Available After the Grievance Process? If the family is still not satisfied with the decision, they may file an administrative appeal as provided under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ()

Subsection 304.05

304. HOW IS DD FAMILY SUPPORT ASSISTANCE TERMINATED?

The Department may terminate DD Family Support assistance under any of the following conditions: ()

05. Failure to Account for or Misuse of Funds. Families are unable or unwilling to account for funds previously received, or funds have been misused. ()

Section 400

400. WHAT ARE THE PURPOSE, COMPOSITION, AND ROLES OF A DD FAMILY SUPPORT COUNCIL?

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)
DOCKET NO. 16-0612-0601 (CHAPTER REPEAL)
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, page 306.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner or Cheryl Bowers at (208) 334-5815.

DATED this 3rd day of November, 2006.

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DOCKET NO. 16-0612-0601 - ADOPTION OF PENDING RULE

This chapter is being repealed in its entirety.

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, page 306.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)
DOCKET NO. 16-0612-0602 (CHAPTER REWRITE - FEE RULE)
NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 307 through 323.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: This rule change will lower the portion of child care costs that families must currently pay. No fees are charged or collected by the Department, but families will still be required to pay a portion of their child care cost to their provider.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner or Cheryl Bowers at (208) 334-5815.

DATED this 3rd day of November, 2006.

Sherri Kovach
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DOCKET NO. 16-0612-0602 - ADOPTION OF PENDING FEE RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 307 through 323.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.06 - EMPLOYERS REPORTS

DOCKET NO. 17-0206-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, and 72,723, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

1. To reconcile conflicting time periods by changing the second time period to fifteen (15) days from ten (10) days;
2. To allow sureties sufficient time to capture data they are required to submit on the Summary of Payments by extending the reporting time period from sixty (60) days to one hundred twenty (120) days;
3. To allow auditing of total and permanent benefit payments in a time frame within which useful feedback may be given and corrections made by changing the language of the rule to "...In the context of death claims and permanent total disability claims, interim summaries of payments shall be filed annually..."

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Volume 06-10, pages 324 through 328.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mindy Montgomery at 334-6000.

DATED this 30th day of October, 2006.

Mindy Montgomery, Director
Industrial Commission
317 Main Street
P.O. Box 83720, Boise, Idaho 83720-0041
Phone: 334-6000; Fax: 334-2321

DOCKET NO. 17-0206-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 324 through 328.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-0602

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule implements the requirements mandated by Section 72-803, Idaho Code.

The Commission made the following changes as a result of input received from public hearings, written comments received, and research conducted:

1. Adds a definition for ambulatory surgery centers (ASCs)
2. Changes definition of large and small hospitals from 50 beds to 100 beds.
3. Changes percentages of appropriate charges made by hospitals and ASCs.
4. Adds acceptable charge for hospital outpatient and ASCs.
5. Adds acceptable charge for surgically implanted hardware.
6. Expands the number of CPT Code ranges with conversion factors to 37.
7. Changes the first inflationary adjustment period from FY2008 to FY2009.
8. Deleted subsection 032.10 Investigation of Claim Compensability.
9. Changed the 30% administrative cost award in the dispute process to exempt hospitals except when payment is delayed after an administrative order.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 329 through 335.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Mindy Montgomery, Director, 208-334-6000.

DATED this 15th day of November 2006.

Mindy Montgomery, Director
Industrial Commission
317 Main Street
P.O. Box 83720
Boise, ID 83720-0041
Phone: 208-334-6000 Fax: 208-334-2321

DOCKET NO. 17-0208-0602 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 329 through 335.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 17-0208-0602

Section 031 - Entire Section

031. ACCEPTABLE CHARGES FOR MEDICAL SERVICES UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter "the Commission") hereby ~~substitutes~~ **adopts** the following ~~for the January 28, 1975 amendment to the "Rules and Regulations Governing Charges for Medical Services Provided under the Idaho Workers' Compensation Law," dated May 2, 1973~~ rule for determining acceptable charges for medical services provided under the Idaho Workers' Compensation Law: (6-1-92)()

~~01. Acceptable Charges Under the Idaho Workers' Compensation Law. Payors shall pay a Provider's reasonable charge for Medical Services furnished to industrially injured patients.~~ (6-1-92)

021. Definitions. Words and terms used in this rule are defined in the subsections which follow. (6-1-92)

a. "Acceptable charge" means the lower of the charge for medical services calculated in accordance with this rule or as billed by the provider, or the charge agreed to pursuant to written contract. ()

b. "Ambulatory Surgery Center (ASC)" means a facility providing surgical services on an outpatient basis only. ()

c. "Hospital" is any acute care facility providing medical or hospital services and which bills using a medicare universal hospital billing form. ()

i. Large hospital is any hospital with more than one hundred (100) acute care beds. ()

ii. Small Hospital is any hospital with one hundred (100) acute care beds or less. ()

ad. "Provider" means any person, firm, corporation, partnership, association, agency, institution or other legal entity providing any kind of medical services related to the treatment of an industrially injured patient which are compensable under Idaho's Workers' Compensation Law. (6-1-92)()

be. "Payor" means the legal entity responsible for paying medical benefits under Idaho's Workers'

Compensation Law. (6-1-92)

ef. “Medical Services” means medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicines, apparatus, appliances, prostheses, and related services, facilities, equipment and supplies. (7-1-95)()

dg. “Reasonable,” ~~except as provided in Subsections 031.02.g. and 031.02.h.,~~ means a charge does not exceed the Provider’s “usual” charge and does not exceed the “customary” charge, as defined below. (7-1-95)()

eh. “Usual” means the most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. (7-1-95)()

fi. “Customary” means a charge which shall have an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. (7-1-95)()

~~**g.** *Provided, however, that for medical services which are not represented by CPT codes, reasonableness of charges shall be determined based on all relevant evidence available, including industry standards, invoices and catalog prices.*~~ (7-1-95)

~~**h.** *Provided, further, that where a Medical Service is one that is exceptional, unusual, variable, rarely provided, or so new that a determination cannot be made as to whether the charge for the Medical Service meets the criteria of Subsections 031.02.d. through 031.02.f. above, or where the Industrial Commission staff determines that its database is statistically unreliable, reasonableness of charges shall be determined based on all relevant evidence available.*~~ (7-1-95)

02. Acceptable Charge. Payors shall pay providers the acceptable charge for medical services. ()

a. Adoption of Standard. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare & Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the acceptable charge for medical services provided under the Idaho Workers' Compensation Law by providers other than hospitals and ASCs. The standard for determining the acceptable charge for hospitals and ASCs shall be: ()

i. For large hospitals: Eighty-five Percent (85%) of the appropriate inpatient charge. ()

ii. For small hospitals: Ninety percent (90%) of the appropriate inpatient charge. ()

iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the appropriate charge. ()

iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). ()

v. Paragraph 031.02.e., shall not apply to hospitals or ASCs. The Commission shall determine the appropriate charge for hospital and ASC services that are disputed based on all relevant evidence in accordance with the procedures set out in Subsection 032.10. ()

b. Conversion Factors. The following conversion factors shall be applied to the Relative Value Unit (RVU) found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

<u>CPT CODE:</u>	<u>DESCRIPTION:</u>	<u>CONVERSION FACTOR:</u>
<u>00000 - 09999</u>	<u>Anesthesia</u>	<u>\$58.19</u>
<u>10000 - 69999</u>	<u>Surgery:</u>	
<u>10000 - 19999</u>	<u>Integumentary System</u>	<u>\$67.00</u>
<u>20000 - 21800</u>	<u>Musculoskeletal System</u>	<u>\$110.00</u>
<u>22100 - 22999</u>	<u>Spine</u>	<u>\$135.00</u>
<u>23000 - 23999</u>	<u>Shoulder</u>	<u>\$110.00</u>
<u>24000 - 24999</u>	<u>Upper arm and Elbow</u>	<u>\$110.00</u>
<u>25000 - 26989</u>	<u>Forearm and Hand</u>	<u>\$120.00</u>
<u>27000 - 27299</u>	<u>Pelvis and Hip</u>	<u>\$120.00</u>
<u>27300 - 27899</u>	<u>Leg</u>	<u>\$105.00</u>
<u>28000 - 28999</u>	<u>Foot and Toes</u>	<u>\$88.00</u>
<u>29000 - 29750</u>	<u>Casts and Strapping</u>	<u>\$60.00</u>
<u>29800 - 29999</u>	<u>Endoscopy and Arthroscopy</u>	<u>\$125.00</u>
<u>30000 - 39999</u>	<u>Respiratory and Cardiovascular</u>	<u>\$88.00</u>
<u>40000 - 49999</u>	<u>Digestive System</u>	<u>\$88.00</u>
<u>50000 - 59999</u>	<u>Urinary System</u>	<u>\$80.00</u>
<u>60000 - 60999</u>	<u>Endocrine System</u>	<u>\$88.00</u>
<u>61000 - 61999</u>	<u>Skull, Meninges and Brain</u>	<u>\$125.00</u>
<u>62000 - 62258</u>	<u>Repair, Neuroendoscopy and Shunts</u>	<u>\$135.00</u>
<u>62263 - 62368</u>	<u>Spine and Spinal Cord</u>	<u>\$88.00</u>
<u>63000 - 63999</u>	<u>Spine and Spinal Cord</u>	<u>\$145.00</u>
<u>64400 - 64530</u>	<u>Nerves and Nervous System</u>	<u>\$88.00</u>
<u>64550 - 64999</u>	<u>Nerves and Nervous System</u>	<u>\$125.00</u>
<u>65000 - 69990</u>	<u>Eye and Ear</u>	<u>\$88.00</u>
<u>70000 - 79999</u>	<u>Radiology</u>	<u>\$85.00</u>
<u>80000 - 89999</u>	<u>Pathology and Laboratory</u>	<u>To be Determined</u>
<u>90465 - 90749</u>	<u>Immunization</u>	<u>\$35.00</u>
<u>90780 - 90784</u>	<u>Infusions and Injections</u>	<u>\$59.00</u>
<u>90788 - 90799</u>	<u>Injections</u>	<u>\$35.00</u>
<u>90801 - 92998</u>	<u>Psychiatry and Medicine</u>	<u>\$60.00</u>
<u>93000 - 93999</u>	<u>Cardiography and Studies</u>	<u>\$70.00</u>
<u>94000 - 94750</u>	<u>Pulmonary</u>	<u>\$60.00</u>
<u>94760 - 94762</u>	<u>Pulse Oximetry</u>	<u>\$40.00</u>

CPT CODE:	DESCRIPTION:	CONVERSION FACTOR:
<u>94770 - 95999</u>	<u>Allergies: Testing</u>	<u>\$70.00</u>
<u>96000 - 96999</u>	<u>Assessments and Special Procedures</u>	<u>\$60.00</u>
<u>97000 - 97799</u>	<u>Physical Medicine and Rehabilitation</u>	<u>\$44.00</u>
<u>97802 - 98999</u>	<u>Acupuncture, Osteopathy, Chiropractic</u>	<u>\$43.00</u>
<u>99000 - 99499</u>	<u>Miscellaneous Services</u>	<u>\$63.00</u>

()

c. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare & Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Codes 01995 and 01996. ()

d. Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted prior to the beginning of each state fiscal year (FY), starting with FY 2009. The Commission shall determine the adjustment, which shall equal the percent change in the all item consumer price index for the west urban area, as published by the U.S. Department of Labor, for the twelve-month (12) month period ending with December of the prior year. ()

e. Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a CPT code, a currently assigned RVU or a conversion factor, will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.02.b., determine the acceptable charge for that service, based on all relevant evidence in accordance with the procedures set out in Subsection 032.10. ()

f. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare & Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows: ()

- i.** Modifier 50: Additional fifty percent (50%) for bilateral procedure. ()
- ii.** Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. ()
- iii.** Modifier 80: Twenty-five percent (25%) of coded procedure. ()
- iv.** Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. ()

Subsections 032.03, 032.04, 032.10, and 032.11

032. BILLING AND PAYMENT REQUIREMENTS FOR MEDICAL SERVICES AND PROCEDURES PRELIMINARY TO DISPUTE RESOLUTION.

03. Provider to Furnish Information. A Provider, when submitting a bill to a Payor, shall inform the

Payor of the nature and extent of medical services furnished and for which the bill is submitted. This information shall include, but is not limited to, the patient's name, the employer's name, the date the medical service was provided, the diagnosis, if any, and the amount of the charge or charges. Failure to submit a bill complying with Subsection 032.03 to the Payor within one hundred twenty (120) days of the date of service will result in the ineligibility of the Provider to utilize the dispute resolution procedures of the Commission set out in Subsection 032.10 for that service. (1-1-93)(____)

04. Prompt Payment. *If Unless the Payor acknowledges denies liability for the claim and does not or pursuant to Subsection 032.06, sends a Preliminary Objection ~~to~~, ~~or~~ Request for Clarification ~~of~~, or both, as to any charge, ~~as provided in Subsection 032.06, below~~; the Payor shall pay the charge within thirty (30) calendar days of receipt of the bill. ~~The Commission will strictly apply all time limits and deadlines established by this rule. However, a reasonable good faith effort to comply with the other provisions of this rule will generally be sufficient to protect a party's rights hereunder.~~ (1-1-93)(____)*

~~**10. Investigation of Claim Compensability.** *Where a Payor is investigating the compensability of a claim as to which a Provider has submitted a bill, the Payor must send a Notice of Investigation of Claim Compensability to the Provider and the Patient within fifteen (15) calendar days of receipt of the Provider's bill. The Payor shall complete its investigation of claim compensability and notify the Commission, the Provider and the Patient of its determination within thirty (30) calendar days of the date the Notice of Investigation of Claim Compensability is sent. Where a Payor does not timely notify the Commission, the Provider and the Patient of its determination, the Payor shall be precluded from objecting to such charge as failing to comport with the applicable administrative rule.* (1-1-93)~~

~~**a. Single Objection Sufficient.** *A single objection stating that liability has been denied shall be sufficient for each Provider from whom a bill is received.* (1-1-93)~~

~~**b. Effect of Commission Determination of Claim Compensability.** *The thirty (30) day period in which the Payor must pay the bill or send a Preliminary Objection and/or Request for Clarification shall recommence running on the date of entry of a final Commission order determining that the claim is compensable.* (1-1-93)~~

~~**c. Effect of Determination of Compensability.** *If the Payor, absent a Commission determination of claim compensability, concludes that it is liable for a claim, the thirty (30) day period in which the Payor must pay the bill or send a Preliminary Objection and/or Request for Clarification shall begin running on the date the Payor notifies the Commission, Provider and Patient that it accepts liability for the claim.* (1-1-93)~~

~~**170. Dispute Resolution Process.** *If, after completing the applicable steps set forth above, a Payor and Provider are unable to agree on the appropriate charge for any Medical Service, a Provider which has complied with the applicable requirements of this rule may move the Commission to resolve the dispute as provided in the Judicial Rule Re: Disputes Between Providers and Payors as Referenced in ~~HDAPA 17.02.08~~ Sections 031 and 032 of this rule (formerly 17-01-03-803.a. and 803.b.). If Provider's motion disputing CPT coded items prevails, Payor shall pay the amount found by the Commission to be owed, plus an additional thirty percent (30%) of that amount to compensate Provider for costs and expenses associated with using the dispute resolution process. For motions filed by a hospital or ambulatory surgical center, under section 031.02.a.v., or by a provider under 031.02.e, the additional thirty percent (30%) shall be due only if the Payor does not pay the amount found due within thirty (30) days of the administrative order. (1-1-93)(____)*~~

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.27 - SELF-FUNDED EMPLOYEES HEALTH CARE PLANS

DOCKET NO. 18-01-27-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 6-10, pages 336 through 339.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Georgia Siehl at (208) 334-4250.

DATED this 15th day of November, 2006.

Shad Priest, Acting Director
Idaho Department of Insurance
700 West State St., 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

DOCKET NO. 18-0127-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 336 through 339.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.28 - GOVERNMENTAL SELF-FUNDED EMPLOYEE HEALTH CARE PLANS

DOCKET NO. 18-0128-0601 (NEW CHAPTER)

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND ADMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2006. This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

In response to public comment, the following changes were made to the rule:

1. Section 022.01 of the proposed rule was amended to add the words "joint public agency" to modify "self-funded plan" in order to more closely reflect the wording to the underlying law.
2. Section 026.02.a of the proposed rule, requiring certain levels of reserves, was removed.
3. Under Section 027 of the proposed rule, references to "dishonesty policy" were added to more closely reflect the wording of the underlying law.

The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 340 through 344.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Georgia Siehl at (208) 334-4250.

DATED this 30th day of November, 2006.

Shad Priest, Acting Director
Idaho Department of Insurance
700 West State St., 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

DOCKET NO. 18-0128-0601 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 340 through 344.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 18-0128-0601

Subsection 022.01

022. REGISTRATION.

01. Registration Required. No joint public agency self-funded plan, unless exempted from registration by Section 41-4103, Idaho Code, shall be organized and permitted to operate in the state of Idaho without securing a certificate of registration from the director of insurance. ~~(7-1-06)T(7-1-06)T~~

Section 026 - Entire Section

026. TRUST FUND RESERVES.

01. Reserve Requirements. (7-1-06)T

a. The trust fund of a self-funded plan in existence as of July 1, 2006 has three (3) years from July 1, 2006 to fully fund all actuarially required reserves. The trust fund must show progress towards coming in compliance with this requirement by a minimum twenty percent (20%) increase in funded reserves at the end of the first year from the effective date and a minimum of forty percent (40%) increase by the end of the second year from the effective date. At the end of the third year of the effective date and thereafter, the plan must continuously maintain reserves sufficient to fully fund payment of all benefits in effect at the time a claim thereunder arises. This reserve must adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. (7-1-06)T

b. The trust fund of a plan not in existence as of July 1, 2006, must continuously maintain reserves, pursuant to Section 41-4110, Idaho Code, from inception of the plan, that are sufficient to fully fund payment of all benefits at the time a claim thereunder arises. This reserve must adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. (7-1-06)T

~~**02. Reserves for Disability Income Benefits.** Reserves established for disability income benefits shall be in an amount not less than reserves determined by the Minimum Reserve Standards for Group Health Insurance Contracts set forth in the NAIC's Accounting Practices and Procedures Manual as adopted by the director, unless it can be proven to the satisfaction of the director that a lower reserve can be actuarially justified. (7-1-06)T~~

032. Certification by Actuary. Reserves must be certified annually by an actuary who meets the requirements of Section 41-4105(2)(d), Idaho Code, and such certification must be accompanied by a statement

describing bases used in reserve determination. The certification shall be in a form acceptable to the director.

(7-1-06)T

043. Insolvent Condition.

(7-1-06)T

a. For a self-funded plan in existence as of July 1, 2006, three (3) years after the effective date of Chapter 41, if the determination of reserves reveals an insolvent condition, the director may, in his discretion, allow the plan a period of time not exceeding ninety (90) days to accumulate required reserves.

(7-1-06)T

b. For plans formed after July 1, 2006, if the determination of reserves reveals an insolvent condition, the director may, in his discretion, allow the plan a period of time not exceeding ninety (90) days to accumulate required reserves.

(7-1-06)T

054. Insolvency. Insolvency means that the plan is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities, including required reserves.

(7-1-06)T

Section 027 - Entire Section

027. BONDING OR DISHONESTY INSURANCE.

01. **Certified Copy of Bond.** A certified copy of the fidelity bond or ~~equivalent coverage~~ *dishonesty policy*, as required under Section 41-4114(3), Idaho Code, shall be furnished to the director by the plan.

~~(7-1-06)T~~(7-1-06)T

02. **Cancellation of Bond Requirements.** The bond *or dishonesty policy* must contain language stating that ~~the bond or policy~~ is noncancellable except upon not less than thirty (30) days advance notice in writing to the trustee and the director. A copy of any notice cancelling a bond *or dishonesty policy* required under Chapter 41 is to be forwarded to the director by the surety *or policy provider* at the same time it is forwarded to the ~~trustee board~~.

~~(7-1-06)T~~(7-1-06)T

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.60 - LONG-TERM CARE INSURANCE MINIMUM STANDARDS

DOCKET NO. 18-0-160-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 56-1305, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the November 1, 2006 Idaho Administrative Bulletin, Vol. 6-11, pages 80 through 116.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joan Krosch at (208) 334-4300.

DATED this 22nd day of November, 2006.

Shad Priest, Acting Director
Idaho Department of Insurance
700 West State St., 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

DOCKET NO. 18-0160-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-11, November 1, 2006, pages 80 through 116.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 22 - STATE BOARD OF MEDICINE

22.01.04 - RULES OF THE BOARD OF MEDICINE FOR REGISTRATION OF SUPERVISING AND DIRECTING PHYSICIANS

DOCKET NO. 22-0104-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-1804, 54-1806(2)(7) and (11), 54-1807(2), and 54-1814(5)(7) and (17), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 353 through 358.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 54-1806(11) and 54-1807(2), Idaho Code. The fee schedule has been broadened to include registration of supervising physicians who are responsible for and supervise the provision of cosmetic treatments using prescriptive medical/cosmetic devices and products that are exclusively non-ablative and non-incisive by medical personnel, however, there will be no increase in fees.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Executive Director, Idaho State Board of Medicine, (208) 327-7000.

DATED this 15th day of December, 2006.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Ste. 140, Boise, ID
PO Box 83720, Boise, ID 83720-0058
Phone: (208) 327-7000 / Fax: (208) 327-7005

DOCKET NO. 22-0104-0601 - ADOPTION OF PENDING FEE RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 353 through 358.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS

DOCKET NO. 24-0301-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-707, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Define a scope of practice in rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this was a determination by the Board.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 24, 2007.

DATED this 2nd day of November, 2006.

Rayola Jacobsen, Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Suite 220, Boise, ID 83702
(208) 334-3233 / (208)334-3945 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0301-0701

011. -- 019. (RESERVED).

020. SCOPE OF PRACTICE (RULE 20).

Clinical nutritional methods as referenced in Section 54-704, Idaho Code, includes but is not limited to the clinical use, administration, recommendation, compounding, prescribing, selling and distributing of vitamins, minerals, botanical medicine, herbals, homeopathic, phytonutrients, antioxidants, enzymes, and glandular extracts, durable and non-durable medical goods and devices in all their forms including parental means. ()

021. -- 099. (RESERVED).

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.13.01 - RULES OF THE PHYSICAL THERAPY LICENSURE BOARD
DOCKET NO. 24-1301-0701
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 9, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-2206, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These rules are being allowed as per Title 54, Chapter 22. To designate the examinations approved by the Board and to establish the passing scores of those examinations and include the examination as a requirement for licensure.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Title 54, Chapter 22 was amended and signed into law in 2006 bringing this board under the Bureau. These rules were not included in the previous rule promulgation and are provided in Title 54, Chapter 22, Idaho Code.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein; N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes are being done to comply with Title 54, Chapter 51.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 24, 2007.

DATED this 9th day of November, 2006.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Suite 220
Boise, ID 83702
(208) 334-3233
(208)334-3945 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1301-0701

010. DEFINITIONS (RULE 10).

- 01. Board.** The Physical Therapy Licensure Board. (7-1-06)T
- 02. Bureau.** Bureau means the Idaho Bureau of Occupational Licenses as created in section 67-2602, Idaho Code. (7-1-06)T
- 03. Physical Therapist.** An individual who meets all the requirements of Title 54, Chapter 22, Idaho Code, holds an active license and who engages in the practice of physical therapy. (7-1-06)T
- 04. Physical Therapist Assistant.** An individual who meets the requirements of Title 54, Chapter 22, Idaho Code, holds an active license, and who performs physical therapy procedures and related tasks that have been selected and delegated only by a supervising physical therapist. (7-1-06)T
- 05. Supportive Personnel.** An individual, or individuals, who are neither a physical therapist or a physical therapist assistant, but who are employed by and/or trained under the direction of a licensed physical therapist to perform designated non-treatment patient related tasks and routine physical therapy tasks. (7-1-06)T
- 06. Non-Treatment Patient Related Tasks.** Actions and procedures related to patient care that do not involve direct patient treatment or direct personal supervision, but do require a level of supervision not less than general supervision, including, but not limited to: treatment area preparation and clean-up, equipment set-up, heat and cold pack preparation, preparation of a patient for treatment by a physical therapist or physical therapist assistant, transportation of patients to and from treatment, and assistance to a physical therapist or physical therapist assistant when such assistance is requested by a physical therapist or physical therapist assistant when safety and effective treatment would so require. (7-1-06)T
- 07. Routine Physical Therapy Tasks.** Actions and procedures within the scope of practice of physical therapy, which do not require the special skills or training of a physical therapist or physical therapist assistant, rendered directly to a patient by supportive personnel at the request of and under the direct personal supervision of a physical therapist or physical therapist assistant. (7-1-06)T
- 08. Testing.** (7-1-06)T
- a.** Standard methods and techniques used in the practice of physical therapy to gather data about individuals including: (7-1-06)T
- i.** Electrodiagnostic and electrophysiological measurements; (7-1-06)T
 - ii.** Assessment or evaluation of muscle strength, force, endurance and tone; (7-1-06)T
 - iii.** Reflexes; (7-1-06)T
 - iv.** Automatic reactions; (7-1-06)T
 - v.** Posture and body mechanics; (7-1-06)T
 - vi.** Movement skill and accuracy; (7-1-06)T
 - vii.** Joint range of motion and stability; (7-1-06)T
 - viii.** Sensation; (7-1-06)T

- ix. Perception; (7-1-06)T
 - x. Peripheral nerve function integrity; (7-1-06)T
 - xi. Locomotor skills; (7-1-06)T
 - xii. Fit, function and comfort of prosthetic, orthotic, and other assistive devices; (7-1-06)T
 - xiii. Limb volume, symmetry, length and circumference; (7-1-06)T
 - xiv. Clinical evaluation of cardiac and respiratory status to include adequacy of pulses, noninvasive assessment of peripheral circulation, thoracic excursion, vital capacity, and breathing patterns; (7-1-06)T
 - xv. Vital signs such as pulse, respiratory rate, and blood pressure; (7-1-06)T
 - xvi. Activities of daily living; and the physical environment of the home and work place; and (7-1-06)T
 - xvii. Pain patterns, localization and modifying factors; and (7-1-06)T
 - xviii. Photosensitivity. (7-1-06)T
- b.** Specifically excluded are the ordering of electromyographic study, electrocardiography, thermography, invasive vascular study, selective injection tests, or complex cardiac or respiratory function studies without consultation and direction of a physician. (7-1-06)T
- 09. Functional Mobility Training.** Includes gait training, locomotion training, and posture training. (7-1-06)T
- 10. Manual Therapy.** Skilled hand movements to mobilize or manipulate soft tissues and joints for the purpose of: (7-1-06)T
- a.** Modulating pain, increasing range of motion, reducing or eliminating soft tissue swelling, inflammation or restriction; (7-1-06)T
 - b.** Inducing relaxation; (7-1-06)T
 - c.** Improving contractile and non-contractile tissue extensibility; and (7-1-06)T
 - d.** Improving pulmonary function. (7-1-06)T
- 11. Physical Agents or Modalities.** Thermal, acoustic, radiant, mechanical, or electrical energy used to produce physiologic changes in tissues. (7-1-06)T
- 12. General Supervision.** A physical therapist's availability at least by means of telecommunications, which does not require a physical therapist to be on the premises where physical therapy is being provided, for the direction of a physical therapist assistant. (7-1-06)T
- 13. Direct Supervision.** A physical therapist's or physical therapist assistant's physical presence and availability to render direction in person and on the premises where physical therapy is being provided. (7-1-06)T
- 14. Direct Personal Supervision.** A physical therapist's or physical therapist assistant's direct and continuous physical presence and availability to render direction, in person and on the premises where physical therapy is being provided. The physical therapist or physical therapist assistant must have direct contact with the patient during each session and assess patient response to delegated treatment. (7-1-06)T
- 15. Supervising Physical Therapist.** A licensed physical therapist who developed and recorded the initial plan of care and/or who has maintained regular treatment sessions with a patient. Such physical therapist's

designation of another licensed physical therapist if the physical therapist who developed and recorded the initial plan of care or maintained regular treatment sessions is not available to provide direction at least by means of telecommunications. (7-1-06)T

16. Nationally Accredited School. A school or course of physical therapy or physical therapist assistant with a curriculum approved by: (7-1-06)T

a. The American Physical Therapy Association (APTA) from 1926 to 1936; or the APTA Accreditation Commission; or (7-1-06)T

b. The Council on Medical Education and Hospitals of the American Medical Association from 1936 to 1960; or (7-1-06)T

c. An Accrediting agency recognized by the U.S. Commissioner of Education, the Council on Postsecondary Accreditation, or both. (7-1-06)T

17. Examination. The examination shall be the National Physical Therapy Examination (NPTE) administered by Federation of State Boards of Physical Therapy. The examination may also include a jurisprudence examination adopted by the Board. (11-9-06)T

(BREAK IN CONTINUITY OF SECTIONS)

151. -- 19974. (RESERVED).

175. REQUIREMENTS FOR LICENSURE (RULE 175).

An individual shall be entitled to a license upon meeting the following requirements: (11-9-06)T

01. Application. Submission of a complete application establishing that the individual has met the qualifications as set forth in these rules. (11-9-06)T

02. Examination. Submission of proof that the individual has successfully passed the NPTE with a scaled score of at least six hundred (600) and the jurisprudence examination with a score of at least seventy-five percent (75%). (11-9-06)T

176. -- 199. (RESERVED).

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. A pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If a pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) (36-2107(b) and (d), Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The changes proposed in Section 058.03 clarify operational boundaries where and how existing outfitters can operate on the St. Joe River.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 2 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 70 through 73.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact: Jake Howard, Executive Director (208) 327-7380 - FAX (208) 327-7382.

DATED this 21st day of November, 2006.

Jake Howard
Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, ID 83706
(208) 327-7380
FAX (208) 327-7382

DOCKET NO. 25-0101-0601 - PENDING RULE

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 70 through 73.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2006 Idaho State Legislature as a final rule.

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD
25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD
DOCKET NO. 25-0101-0602
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. A pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If a pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) (36-2107(b) and (d), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: As provided for in Section 36-2106, Idaho Code, this rule change will give the Board greater flexibility in scheduling Board meetings. The proposed change amends Section 071 by removing existing language that restricts the Board from scheduling meetings at times other than those now stipulated in rule. This proposed rule will have minimal impact on the outfitting and guiding industry and the public.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 6, 2006, Idaho Administrative Bulletin, Vol. 06-9, page 146.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact: Jake Howard, Executive Director (208) 327-7380 - FAX (208) 327-7382.

DATED this 21st day of November, 2006.

Jake Howard
Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, ID 83706
(208) 327-7380
FAX (208) 327-7382

DOCKET NO. 25-0101-0602 - PENDING RULE

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-9, September 6, 2006, page 146.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2006 Idaho State Legislature as a final rule.

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Commission and is now pending review by the 2007 State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Commission has adopted a pending rule. The action is authorized pursuant to Sections 61-515, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 428 and 429.

FISCAL IMPACT: There is no fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 3rd day of November, 2006.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington St. (83702-5983)
PO Box 83720
Boise, ID 83720-0074
Tel: (208) 334-0338
FAX: (208) 334-3762

DOCKET NO. 31-1101-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 428 and 429.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.07- RULES GOVERNING TITLING OF SALVAGE, SPECIALLY CONSTRUCTED, AND RECONSTRUCTED MOTOR VEHICLES

DOCKET NO. 39-0207-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-201, 49-507, and 49-525, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Proposed changes bring this rule into conformity and compliance with code changes in 2006 HB 727, effective July 1, 2006. The bill mandates that all vehicles that have been declared a total loss enter the salvage program and be issued a salvage certificate of ownership, establishes criteria to require a branded certificate for repaired or reconstructed vehicles, and includes a requirement for dealers to disclose title brands to purchasers, protecting consumers by identifying that the vehicle was previously declared a salvage vehicle.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Volume 06-9, pages 201 through 207.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

DATED this 15th day of November, 2006.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

DOCKET NO. 39-0207-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-9, September 6, 2006, pages 201 through 207.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.02.22 - RULES GOVERNING MILEAGE USE FEE ADMINISTRATION
DOCKET NO. 39-0222-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-201, 49-434, AND 49-439, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The entire rule has been reorganized and updated to recognize the new method of fee payments, based on registration and permit fees, per Senate Bill 1580, 2000. Changes also address quarterly reporting requirements, installment payments, refunds, delinquent or non-payment of fees, suspension or revocation of a customer account and methods of payment. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Volume 06-10, pages 509 through 525.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 49-439(7) and 28-22-105, Idaho Code. Late penalty fee of 10% plus 1% per month for failure to pay installment payment on Commercial Vehicle Registration by due date, and \$40 fee to reinstate suspended payment plan account or reinstate customer account for non-payment authorized per Section 49-439(7), Idaho Code. \$20 fee for non-sufficient fund check authorized per Section 28-22-105, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Frew, Motor Vehicle Administrator, 334-8809.

DATED this 15th day of November, 2006.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

DOCKET NO. 39-0222-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 509 through 525.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.24 - RULES GOVERNING "GRAY MARKET" VEHICLE REGISTRATION AND TITLING

DOCKET NO. 39-0224-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-507, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed changes clarify the department's requirements regarding proof of legal ownership, enabling the department to require sufficient ownership documentation prior to titling, thereby limiting the department's and the state's liability by reducing the risk associated with titling vehicles imported from another country without the legal ownership documents. This may reduce the risk to owners in other countries as well as U.S. consumers, by preventing the titling potentially stolen vehicles.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Volume 06-9, pages 208 through 210.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Amy Smith, Vehicle Services Manager, 334-8660.

DATED this 15th day of November, 2006.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

DOCKET NO. 39-0224-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-9, September 6, 2006, pages 208 through 210.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.02.73 - RULES GOVERNING ACCIDENT PREVENTION COURSE

DOCKET NO. 39-0273-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 41-2515 and 49-201, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule-making is necessary for compliance with Idaho Code changes in House Bill 462, effective July 1, 2006, which lowers the age requirement to receive an insurance premium reduction benefit for taking the Accident Prevention Course, from age 65 years or older to age 55 years or older.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Volume 06-8, pages 96 and 97.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ed Pemble, Driver Services Manager, 332-7830.

DATED this 15th day of November, 2006.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

DOCKET NO. 39-0273-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 96 and 97.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.11 - RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY
AND TRAVEL RESTRICTIONS

DOCKET NO. 39-0311-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Due to ever increasing traffic volumes in and around certain urban areas during the hours of high-commuter traffic (6:30 a.m. to 8:30 a.m. and 4:00 p.m. to 6:00 p.m.), this rule is being modified to restrict over-width permitted vehicles from operating on certain sections of both state and interstate highways in those specified locations. There is a minimal impact to industry since they are already subject to high commuter traffic restrictions on non-interstate state highways.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Volume 06-8, pages 98 through 101.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Frew, Motor Vehicle Administrator, 334-8809.

DATED this 15th day of November 2006.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

DOCKET NO. 39-0311-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 98 through 101.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.21 - RULES GOVERNING SPECIAL PERMIT FEES

DOCKET NO. 39-0321-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312, 49-201, and 49-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Fees collected by the overlegal permit program are intended to cover the administrative costs associated with permit processing, issuance and enforcement. As stated in this rule (100), and as approved by the Legislature, those costs are to be borne by the permittees and not by the general traveling public. (Tax supported agencies must obtain permits but are exempt from fees.) A 2005 cost study determined that administrative costs exceed permit receipts by more than \$800,000. An increase of \$15 per permit issued in this program will increase receipts by approximately \$1,000,000.

Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule. Section 100, contains an incorrect Idaho Code reference. Section 49-1002(2), should be 49-1004(2).

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Volume 06-9, pages 211 through 214.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased.

Each of the Overlegal permits specified in this rule which allow movement of vehicles or loads which are in excess of the sizes or weights allowed in sections 49-1001, 49-1002, or 49-1010, Idaho Code, will be increased by \$15 to cover the administrative costs associated with permit processing, issuance and enforcement. The majority of annual permits, currently issued at \$28 would increase to \$43. The Transportation Board is authorized to issue permits and set establish fees in Sections 49-201 and 49-1004, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Frew, Motor Vehicle Administrator, 334-8809.

DATED this 15th day November, 2006.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

DOCKET NO. 39-0321-0601 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-9, September 6, 2006, pages 211 through 214.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 39-0321-0601

Section 100

100. COSTS TO BE BORNE BY PERMITTEE.

The movement of oversize or overweight vehicles or vehicles with over legal loads is a privilege not accorded every user of the highway. Administrative cost incurred in the processing, issuance and enforcement of ~~special~~ overlegal permits shall be borne by such permittees and not by the general traveling public through expenditure of highway user funds. Overlegal permits issued for non-reducible, overweight vehicles and/or loads will be charged a road use fee as set forth in Section 49-1004(2), Idaho Code. Tax supported agencies are required to obtain ~~special~~ overlegal permits if their loads exceed the sizes or weights stated in Idaho Code, but they are exempt from paying fees for the permits.

~~(1-3-92)~~(____)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312 and 49-1004, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Rulemaking is necessary for compliance with House Bill 561, effective July 1, 2006. The code changes prohibit the use of single tires on single axles or within groups of axles, except for steering axles, self-steering variable load suspension axles, or unless equipped with wide-base tires fifteen inches wide or greater. Use of the "super-single" tire contributes to more efficient trucking due to the greater distribution of weight which allows more payload per trip and possibly fewer trips, resulting in lower operating costs and reduced emissions.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Volume 06-8, pages 102 through 104.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Frew, Motor Vehicle Administrator, 334-8809.

DATED this 15th day of November, 2006.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

DOCKET NO. 39-0322-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 102 through 104.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.43 - RULES GOVERNING UTILITIES ON STATE HIGHWAY RIGHT-OF-WAY

DOCKET NO. 39-0343-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312(3) and 67-5229, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rulemaking is to update the website address, referenced in the rule, which provides more expedient access for all interested parties to the document incorporated by reference in this rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Volume 06-9, pages 215 through 217.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Damon Allen, Roadway Design Engineer, 334-8488.

DATED this 15th day of November, 2006.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

DOCKET NO. 39-0343-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-9, September 6, 2006, pages 215 through 217.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.45 - RULES GOVERNING SALE OF NO LONGER USEFUL OR USABLE REAL PROPERTY

DOCKET NO. 39-0345-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 58-335a, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

In the 2005 legislative session, Senate Bill 1083 amended Section 58-335A, Idaho Code, to allow local government entities to acquire surplus ITD property, for other than transportation purposes, at a negotiated price, up to the appraised value, expressly for public purposes, with sales proceeds to the State Highway Account.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Volume 06-10, pages 526 through 529.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Leonard Hill, Right-of-Way Manager, 334-8520.

DATED this 15th day of November, 2006.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

DOCKET NO. 39-0345-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 526 through 529.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.62 - RULES GOVERNING LOGO SIGNS

DOCKET NO. 39-0362-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312, 40-313, 40-1911(5), and 67-5229, Idaho Code, and U.S.C. Title 23, Chapter 1, 131 and 156.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The document incorporated by reference has been revised to reflect the current edition of the Manual on Uniform Traffic Control Devices (MUTCD), 2003 Edition, including Revision One, dated July 21, 2004, as adopted by the State, effective April 1, 2005. Changes include provisions for attractions, 24-hour pharmacies, and RV friendly symbols on logo signs. Facilities are also allowed to operate under conditional qualification. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Volume 06-10, pages 530 and 531.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 67-5229(4), Idaho Code. The application fee increase for new logo signs, from \$75 to \$100, makes it consistent with the fee for changing a sign design. The logo trailblazer fee of \$100 is removed and replaced with a \$25 annual fee which will offset some cost of installation, on-going maintenance labor, and the post assembly. The entire fee schedule can be found in the document incorporated by reference. See the Logo coordinator contact list on-line to find a contact person near you to obtain a copy:
<http://itd.idaho.gov/highways/ops/Traffic/PUBLIC%20FOLDER/Policies/Logo/LOGO%20Contacts.pdf>.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Brent Jennings, Highway Operations and Safety Manager, 334-8557.

DATED this 15th day of November, 2006.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

DOCKET NO. 39-0362-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 530 and 531.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.64 - RULES GOVERNING TOURIST ORIENTED DIRECTIONAL SIGNS (TODS)

DOCKET NO. 39-0364-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312, 40-313, 40-1911(5), and 67-5229, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The document incorporated by reference has been revised to reflect the current edition of the Manual on Uniform Traffic Control Devices (MUTCD), 2003 Edition, including Revision One, dated July 21, 2004, as adopted by the State, effective April 1, 2005. Changes include provisions for RV friendly symbols on tourist oriented directional signs and signing for facilities located in a bypassed community. Facilities are also allowed to operate under conditional qualification. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Volume 06-10, pages 532 and 533.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 67-5229(4), Idaho Code. This rule-making adds a \$25 installation fee for TODS trailblazer signs which covers the cost to fabricate the signs, not the labor or materials to install. It also adds a \$50 fee for sign relocation (removal and reinstallation). Both have been added to maintain consistency between the standards for TODS and Logos. When collected, the \$25 fee will be deposited in the State Highway Account.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Brent Jennings, Highway Operations and Safety Manager, 334-8557.

DATED this 15th day of November, 2006.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

DOCKET NO. 39-0364-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 532 and 533.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.04.07 - RULES GOVERNING AERIAL SEARCH AND RESCUE OF LOST AIRCRAFT AND AIRMEN

DOCKET NO. 39-0407-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 21-111, 21-114, and 21-142, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The 2005 Legislature amended Section 21-114, Idaho Code, Registration of Pilots and Aircraft, and Section 46-1006, Idaho Code, Powers and Duties of Chief and Bureau, by placing the coordination of search and rescue under the direction and supervision of the Chief of the Bureau of Homeland Security while requiring aerial search and rescue operations be coordinated by the Idaho Transportation Department, Division of Aeronautics. Those changes are reflected in this rule-making.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Volume 06-10, pages 534 through 538.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Frank Lester, Aeronautics Safety/Education Coordinator, 334-8780.

DATED this 15th day of November, 2006.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129, Boise ID 83707-1129
Phone: 208-334-8810 / FAX: 208-334-8195

DOCKET NO. 39-0407-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 534 through 538.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 41 - PUBLIC HEALTH DISTRICT #1

41.01.01 - RULES OF PUBLIC HEALTH DISTRICT #1

DOCKET NO. 41-0101-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session except as otherwise provided by the rule change, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-416, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Expand Institutional Controls Program to include OU-3 (Coeur d'Alene River Basin) because remediation is taking place in OU-3 of the Bunker Hill Superfund site cleanup. Rules proposed are very similar to existing rules codified in IDAPA 41.01.01.500 – merely covers additional lands with minor changes in procedure and standards to reflect differences in Record of Decision. Additional changes have been proposed to the District's rules to clarify septic tank standards and procedures, to clarify existing rules regarding critical materials on the Rathdrum Prairie Aquifer, to correct outdated references to the Department of Health and Welfare and to include required sections as requested by the Office of Administrative Rules.

The pending rule is being adopted as proposed, subject only to proofreading corrections authorized pursuant to Section 67-5228, Idaho Code. The complete text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 539 through 563.

FISCAL IMPACT: The proposed rule would not have a negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jerry Cobb (Shoshone County/Bunker Hill), 114 West Riverside, Kellogg, ID (208) 783-0707 or Dale Peck, (all other changes) 8500 N. Atlas Road, Hayden, ID 83835; (208) 415-5210.

DATED this 15th day November, 2006.

Jeanne Bock, Director
Public Health District #1
8500 North Atlas Road, Hayden, ID 83835
Phone: (208) 415-5100 Fax (208) 415-5106

DOCKET NO. 41-0101-0601 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 539 through 563.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0303

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-ninth Idaho Legislature if the rule is approved by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 6, 2006, Vol. 06-9, pages 219 through 223. The agency received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/air/58_0101_0303_pending.cfm or by contacting the undersigned.

FEE SUMMARY: This rulemaking revises the annual assessment and payment of Title V fees. Collection of the fees is authorized by Sections 39-115(3), 39-118D and 39-119, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: DEQ will request an additional \$100,000 to be appropriated in the general fund to cover other agency air quality actions, previously paid for with Title V fees, though not specifically required by federal law.

IDAHO CODE 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Dated this 16th day of November, 2006.

Paula J. Wilson, Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418 / Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

DOCKET NO. 58-0101-0303 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-9, September 6, 2006, pages 219 through 223.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0602

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-ninth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Sections 111 and 112(l) of the Clean Air Act.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 6, 2006, Vol. 06-9, pages 224 through 232. After consideration of public comments, the proposed rule has been revised at Section 107. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/air/58_0101_0602_pending.cfm or by contacting the undersigned.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Dated this 16th day of November, 2006.

Paula J. Wilson
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DOCKET NO. 58-0101-0602 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-9, September 6, 2006, pages 224 and 232.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0101-0602

Subsection 107.03.p.

107. INCORPORATIONS BY REFERENCE.

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-1-94)

~~7D.~~ The final rule for Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units, 70 Fed. Reg. 28,606 (May 18, 2005), corrected at 70 Fed. Reg. 51,267-6, is: the final rule for Standards of Performance for Electric Utility Steam Generating Units, Industrial-Commercial-Institutional Steam Generating Units, and Small Industrial-Commercial-Institutional Steam Generating Units, only as it applies to coal fired electric steam generating units as defined in 40 CFR 60.24, 71 Fed. Reg. 9865 (February 27, 2006); Revision of December 2000 Clean Air Act Section 112(n) Finding Regarding Electric Utility Steam Generating Units; and Standards of Performance for New and Existing Electric Utility Steam Generating Units: Reconsideration, 71 Fed. Reg. 33,388 (June 9, 2006) are expressly excluded from any incorporation by reference into these rules. (4-11-06)()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0603

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-ninth Idaho Legislature if the rule is approved by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, October 4, 2006, Vol. 06-10, pages 597 and 598. After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/air/58_0101_0603_pending.cfm or by contacting the undersigned.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Dated this 16th day of November, 2006.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
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DOCKET NO. 58-0101-0603 - ADOPTION OF PENDING RULE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-10, October 4, 2006, pages 597 and 598.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0602

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-ninth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 2, 2006, Vol. 06-8, pages 140 through 234. After consideration of public comments, the proposed rule has been revised at Sections 003, 005, 008, 010, 501-504, 510, 513, 541, 544, and 552. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/drinking_water/58_0108_0602_pending.cfm or by contacting the undersigned.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in these rules. Therefore, the changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government.” The engineering standards for design, construction, and operation of public drinking water systems regulate activities that are not regulated by the federal government. These rules address the review and approval of plans and specifications for public drinking water systems and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. Therefore, Section 39-107D, Idaho Code, applies.

Section 39-107D(3), Idaho Code, provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. These rules include facility and design standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of public drinking water facilities. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility and design standards are based upon guidelines set forth in documents, such as the “Recommended Standards for Water Works” and the “American Water Works Association Standards,” that are generally accepted and used throughout the United States by engineers and state regulators.

GENERAL INFORMATION: For more information about DEQ’s programs and activities, visit DEQ’s web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Tom John, thomas.john@deq.idaho.gov, (208)373-0191.

Dated this 16th day of November, 2006.

Paula J. Wilson, Hearing Coordinator
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DOCKET NO. 58-0101-0602 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 140 and 234.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0108-0602

Subsections 003.07, 003.12.d., and 003.22 through 003.109

003. DEFINITIONS.

The definitions set forth in 40 CFR 141.2, revised as of July 1, 2002, are herein incorporated by reference except for the definition of the terms "action level," "disinfection," "noncommunity water system," and "person". (5-3-03)

067. Average ~~Daily~~ Day Demand. The volume of water used by a system on an average day based on a one (1) year period. (12-10-92)(____)

12. Components of Finished Water Storage. (____)

d. Equalization Storage. Storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak *hour demand*. (____)

22. Dead End Main. *A distribution main of any diameter and length that does not loop back into the distribution system.* (____)

203. Department. The Idaho Department of Environmental Quality. (12-10-92)

214. Director. The Director of the Department of Environmental Quality or his designee. (12-10-92)

225. Disinfection. Introduction of chlorine or other agent or process approved by the Department, in sufficient concentration or dosage, and for the time required to kill or inactivate pathogenic and indicator organisms.

~~(5-3-03)~~()

~~236.~~ **Disinfection Profile.** A summary of daily Giardia lamblia inactivation through the drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172 and 40 CFR 141.530-141.536. (5-3-03)

~~247.~~ **Distribution System.** Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s) and/or treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. (3-16-04)

~~28.~~ **Drinking Water.** Means "water for human consumption". ()

~~259.~~ **Drinking Water System.** All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (12-10-92)

~~2630.~~ **DWIMS.** Idaho Department of Environmental Quality Drinking Water Information Management System. Replaced by SDWISS April 2001. (3-15-02)

~~2731.~~ **Enhanced Coagulation.** The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. Conventional filtration treatment is defined in 40 CFR 141.2. (5-3-03)

~~2832.~~ **Enhanced Softening.** The improved removal of disinfection byproduct precursors by precipitative softening. (4-5-00)

~~29.~~ **Equalization Storage.** *Storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak daily usage.* (4-6-05)

~~303.~~ **Exemption.** A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (12-10-92)

~~34.~~ **Facility Plan.** The facility plan for a public drinking water system describes the overall system, including sources of water, treatment processes and facilities, pumping stations and distribution piping, finished water storage, and waste disposal. It is a comprehensive planning document for infrastructure and includes a plan for the future of the system/facility, including upgrades and additions. It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs. A facility plan is sometimes referred to as a master plan or facilities planning study. In general, a facility plan is an overall system-wide plan as opposed to a project specific plan. ()

~~375.~~ **Facility Standards and Design Standards.** Facility standards and design standards are described in Sections ~~54900~~ through 552 of these rules. Facility and design standards found in Sections ~~54900~~ through 552 of these rules must be followed in the planning, design, construction, and review of public drinking water facilities. (4-11-06)()

~~326.~~ **Fee Assessment.** A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

~~337.~~ **Filter Profile.** A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (4-5-00)

~~38.~~ **Finished Water.** Water that has completed all treatment processes and is ready for delivery to consumers. ()

~~39.~~ **Fire Flow Capacity.** *The water system capacity, in addition to maximum day demand, that is available for fire fighting purposes within the water system or distribution system pressure zone. Adequacy of the water system fire flow capacity is determined by the local fire authority.* ()

~~340.~~ **GAC10.** Granular activated carbon filter beds with an empty bed contact time of ten (10) minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty (180) days. (4-5-00)

~~351.~~ **Groundwater System.** A public water system which is supplied exclusively by a groundwater source or sources. (12-10-92)

~~362.~~ **Groundwater Under the Direct Influence of Surface Water.** Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as Giardia lamblia or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation. (5-3-03)

~~373.~~ **Haloacetic Acids (Five) (HAA5).** The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (4-5-00)

~~384.~~ **Health Hazards.** Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. See also the definition of Significant Deficiency, which refers to a health hazard identified during a sanitary survey. (5-3-03)

~~395.~~ **Inorganic.** Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

~~406.~~ **Laboratory Certification Reciprocity.** Acceptance of a laboratory certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. (4-5-00)

~~417.~~ **License.** A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. (4-6-05)

~~428.~~ **Log.** Logarithm to the base ten (10). (12-10-92)

~~439.~~ **Material Deviation.** A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. (4-11-06)

~~4450.~~ **Material Modification.** For the purpose of plan and specification review requirements as specified in Subsection ~~551.04~~ 504.03, those modifications of an existing public water system that are intended to increase system capacity or alter the methods or processes employed. (~~4-11-06~~)()

~~451.~~ **Maximum Contaminant Level (MCL).** The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. (11-17-05)T

~~4652.~~ **Maximum ~~Daily Consumption~~ Day Demand Rate.** The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest ~~on record~~ *for the design year.* (~~12-10-92~~)()

~~47.~~ **Maximum Hourly Demand.** *The greatest volume of water used in any hour during a one (1) year period.* (~~12-10-92~~)

4853. Maximum Residual Disinfectant Level (MRDL). A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. (4-5-00)

4954. Maximum Residual Disinfectant Level Goal (MRDLG). The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. (4-5-00)

505. Method Detection Limit (MDL). The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)

546. New System. Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (4-5-00)

527. Noncommunity Water System. A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. (4-5-00)

538. Non-Potable Mains. The pipelines that collect and convey non-potable discharges from or to multiple service connections. (4-11-06)

549. Non-Potable Services. The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. (4-11-06)

5560. Nontransient Noncommunity Water System. A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (12-10-92)

561. Nuclear Facility. Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)

5762. Operating Shift. That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. (4-5-00)

5863. Owner/Purveyor of Water/Supplier of Water. The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers and/or is ultimately responsible for the public water system operation. (4-6-05)

5964. Peak Hourly ~~Flow~~ Demand. The highest hourly flow, ~~during any day~~ excluding fire flow that a water system or distribution system pressure zone is likely to experience in the design year. (12-10-92)()

605. Person. A human being, municipality, or other governmental or political subdivision or other

public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)

646. Pesticides. Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algacides. (12-10-92)

647. Plant. A physical facility where drinking water or wastewater is treated or processed. ()

648. Point of Use (POU) Treatment Device. A treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap. (11-17-05)T

649. Point of Use (POU) Treatment System. A collection of POU treatment devices. (11-17-05)T

6470. Potable ~~Water~~ Mains. Pipelines that deliver potable water to multiple service connections. (4-11-06)()

6571. Potable ~~Water~~ Services. Pipelines that convey potable water from a connection to the potable water main to individual consumers. (4-11-06)()

72. Preliminary Engineering Report. The preliminary engineering report for a public drinking water system facility is a report that addresses specific portions of the system or facility for which modifications are being designed. Modifications may include, but are not limited to, significant changes to existing processes or facilities, system expansion, addition of treatment, or installation of other processes and facilities. This report addresses specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 503. Preliminary engineering reports are generally project specific as opposed to an overall system-wide plan, such as a facility plan. However, the preliminary engineering report shall describe modifications to the facility plan that may be required as a result of the proposed project. ()

6673. Public Notice. The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)

674. Public Drinking Water System. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system." (4-6-05)

6875. Public Water System/Water System/System. Means "public drinking water system." (4-5-00)

76. Pump House. An above-grade structure containing important water system components, such as a well, hydropneumatic tank, booster pump, pump controls, flow meter, well discharge line, or a treatment unit. Pump houses are often called well houses in common usage, even though in modern construction these structures may not contain either a well or a pump. These terms are used interchangeably in national standards and trade publications. ()

6977. Quasi-Municipal Corporation. A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to drinking water districts. (4-11-06)

78. Regulated Public Utility. For the purpose of these rules, any public water system that falls under the jurisdiction of the Idaho Public Utilities Commission and is subject to the rules thereof. ()

~~702.~~ **Repeat Compliance Period.** Any subsequent compliance period after the initial compliance period. (12-10-92)

~~7180.~~ **Responsible Charge (RC).** Responsible Charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and on-call direction of employees and assistants. (4-5-00)

~~7281.~~ **Responsible Charge Operator.** An operator of a public drinking water system, designated by the system owner, who holds a valid license at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system. (4-6-05)

~~7382.~~ **Reviewing Authority.** For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection ~~551.04.a.~~ 504.03.b. of these rules, the qualified Idaho licensed professional engineer is also the reviewing authority. (~~4-11-06~~)()

~~7483.~~ **Sampling Point.** The location in a public water system from which a sample is drawn. (12-10-92)

~~7584.~~ **Sanitary Defects.** Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)

~~7685.~~ **Sanitary Survey.** An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (4-5-00)

- a. Source; (4-5-00)
- b. Treatment; (4-5-00)
- c. Distribution system; (4-5-00)
- d. Finished water storage; (4-5-00)
- e. Pumps, pump facilities, and controls; (4-5-00)
- f. Monitoring and reporting and data verification; (4-5-00)
- g. System management and operation; and (4-5-00)
- h. Operator compliance with state requirements. (4-5-00)

~~7786.~~ **SDWIS-State.** An acronym that stands for "Safe Drinking Water Information System-State Version." It is a software package developed under contract to the U.S. Environmental Protection Agency and used by a majority of U.S. states to collect, maintain, and report data about regulated public water systems. See also the definition of DWIMS. (5-3-03)

~~87.~~ **Sewage.** The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. ()

~~788.~~ **Significant Deficiency.** As identified during a sanitary survey, any defect in a system's design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the Department or its agent determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. See also the definition of Health Hazards. (5-3-03)

~~7989.~~ Special Irrigation District. An irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with the exclusion provisions in Section 1401(4)(B)(i)(II) or (III) of the Safe Drinking Water Act. (4-6-05)

~~8090.~~ Spring. A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)

~~8191.~~ Substitute Responsible Charge Operator. An operator of a public drinking water system who holds a valid license at a class equal to or greater than the drinking water system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-6-05)

~~8292.~~ Surface Water System. A public water system which is supplied by one (1) or more surface water sources or groundwater sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (4-5-00)

~~8393.~~ SUVA (Specific Ultraviolet Absorption) (~~SUVA~~). SUVA means Specific Ultraviolet Absorption at two hundred fifty-four (254) nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wave length of two hundred fifty-four (254) nm (UV254) (in m=1) by its concentration of dissolved organic carbon (DOC) (in mg/l). (~~4-5-00~~)(____)

~~8494.~~ Total Organic Carbon (TOC). Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (4-5-00)

~~8595.~~ Transient Noncommunity Public Water System. A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (~~10-1-93~~)(____)

~~8696.~~ Treatment Facility. Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (4-5-00)

~~8797.~~ Turbidity. A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)

~~8898.~~ Uncovered Finished Water Storage Facility. An uncovered tank, reservoir, or other facility that is used to store water that will undergo no further treatment except residual disinfection. (5-3-03)

~~899.~~ Unregulated Contaminant. Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)

~~90100.~~ Variance. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the deferment does not cause an unreasonable risk to public health. (12-10-92)

~~91101.~~ Very Small Public Drinking Water System. A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). (4-5-00)

~~92102.~~ Volatile Organic Chemicals (VOCs). VOCs are lightweight organic compounds that vaporize or

evaporate easily. (10-1-93)

93103. Vulnerability Assessment. A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

94104. Waiver. (12-10-92)

a. For the purposes of these rules, except Sections 5500 through 552, “waiver” means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (~~10-1-93~~)(____)

b. For purposes of Sections 5500 through 552, “waiver” means a dismissal of any requirement of compliance. (~~12-10-92~~)(____)

c. For the purposes of Section 010, “waiver” means the deferral of a fee assessment for a public drinking water system. (10-1-93)

105. Wastewater. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (____)

95106. Water for Human Consumption. Water that is used by humans for drinking, bathing for purposes of personal hygiene (including hand-washing), showering, cooking, dishwashing, and maintaining oral hygiene. In common usage, the terms “culinary water”, “drinking water,” and “potable water” are frequently used as synonyms. (5-3-03)

96107. Water Main. A pipe within a public water system which is under the control of the system operator and conveys water to two (2) or more service connections. The collection of water mains within a given water supply is called the distribution system. (5-3-03)

97108. Water Main Extension. As used in Subsection ~~551.04~~ 504.03, an extension of the distribution system of an existing public water system that does not require a booster pumping station and is intended to increase the service area of the water system. (~~4-11-06~~)(____)

109. Watershed. The land area from which water flows into a stream or other body of water which drains the area. (____)

~~**98. Well House.** A structure containing important water system components, such as a well, hydropneumatic tank, booster pump, pump controls, flow meter, distribution line, or a treatment unit. Well houses are often called pump houses in common usage, even though in modern construction these structures may not contain either a well or a pump. These terms are used interchangeably in national standards and trade publications. (4-6-05)~~

Section 005 - Entire Section

005. GENERAL PROVISIONS FOR WAIVERS, VARIANCES, AND EXEMPTIONS. 40 CFR 141.4, revised as of July 1, 2004, is herein incorporated by reference. (4-6-05)

01. Waivers. (12-10-92)

a. The Department may waive any requirement of Sections 5500 through 552 that is not explicitly imposed by Idaho Statute, if it can be shown to the satisfaction of the Department that the requirement is not necessary for the protection of public health, protection from contamination, and satisfactory operation and maintenance of a public water system. (~~5-3-03~~)(____)

b. The Department may at its discretion waive the requirements outlined in Section 010. (10-1-93)

c. Waiver of monitoring requirements is addressed in Subsection 100.07. (5-3-03)

02. Variances. (5-3-03)

a. General Variances. A variance may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(a) (The Safe Drinking Water Act) are met. These include but are not limited to: (5-3-03)

i. The system has installed the best available technology, treatment techniques, or other means to comply with the maximum contaminant level; and (5-3-03)

ii. Alternative sources of water are not reasonably available to the system. (5-3-03)

iii. For provisions of a national primary drinking water regulation which requires the use of a specific treatment technique with respect to a contaminant, the system must demonstrate that the technique is not necessary to protect the health of the system's customers. (5-3-03)

b. Small System Variances. A small system variance for a maximum contaminant level or treatment technique may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(e) are met. These include, but are not limited to: (5-3-03)

i. The system serves three thousand three hundred (3,300) or fewer persons; (5-3-03)

ii. If the system serves more than three thousand three hundred (3,300) persons but fewer than ten thousand (10,000) persons, the application shall be approved by the U.S. Environmental Protection Agency; (5-3-03)

iii. The U.S. Environmental Protection Agency has identified a variance technology that is applicable to the size and source water quality conditions of the public water system; (5-3-03)

iv. The system installs, operates and maintains such treatment technology, treatment technique, or other means; and (5-3-03)

v. The system cannot afford to comply with a national primary drinking water regulation in accordance with affordability criteria established by the state, including compliance through treatment, alternative source of water supply, restructuring or consolidation. (5-3-03)

03. Exemptions. An exemption may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1416(a) are met. These include but are not limited to: (5-3-03)

a. The system is unable to comply with a maximum contaminant level or treatment technique due to compelling factors, which may include economic factors; (5-3-03)

b. The system was in operation by the effective date of such contaminant level or treatment technique and no reasonable source of water is available to the system; or (5-3-03)

c. If the system was not in operation by the effective date of such contaminant level or treatment technique, then no reasonable alternative source of water is available to the system; and (5-3-03)

d. The granting of an exemption will not result in an unreasonable risk to health; (5-3-03)

e. Management or restructuring changes cannot reasonably be made to comply with the contaminant level or treatment technique to improve the quality of the drinking water; (5-3-03)

f. The system cannot meet the standard without capital improvements which cannot be completed prior to the date established pursuant to 42 USC Section 1412b(10); (5-3-03)

g. If the system needs financial assistance, the system has entered into an agreement to obtain such financial assistance; or (5-3-03)

h. The system has entered into an enforceable agreement to become a part of a regional public water system and is taking all practical steps to meet the standard. (5-3-03)

04. Conditions. A waiver, exemption or variance may be granted upon any conditions that the Department, in its discretion, determines are appropriate. Failure by the public water system to comply with any condition voids the waiver, variance or exemption. (12-10-92)

05. Public Hearing. The Department shall provide public notice and an opportunity for public hearing in the area served by the public water system before any exemption or variance under Section 005 is granted by the Department. At the conclusion of the hearing, the Department shall record the findings and issue a decision approving, denying, modifying, or conditioning the application. (5-3-03)

06. Exceptions. Any person aggrieved by the Department's decision on a request for a waiver, variance or exemption may file a petition for a contested case with the Board. Such petitions shall be filed with the Board, as prescribed in, IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

07. Surface Water Variances. Variances from the requirements of Sections 300 through 303 are not allowed. (4-5-00)

08. Surface Water Exemptions. Exemptions from 40 CFR 141.72(a)(3) and 40 CFR 141.72(b)(2), incorporated by reference herein, are not allowed. (10-1-93)

Section 008 - Entire Section

008. HEALTH HAZARDS.

01. Prohibited. (10-1-93)

a. No public water system, or portion of a public water system, shall constitute a health hazard, as determined by the Department and defined in Section 003 of these rules. (5-3-03)

b. No public water system, or portion of a public water system, shall create a condition which prevents, or may prevent, the detection of a health hazard, as determined by the Department. (5-3-03)

02. Schedule. Health hazards and conditions which prevent, or may prevent, the detection of a health hazard must be mitigated as required by the Department and terminated within a time schedule established by the Department. (5-3-03)

03. Standards. Design and construction revisions necessary to correct a health hazard or conditions which prevent, or may prevent, the detection of a health hazard, must be reviewed and approved by the Department, and comply with Sections ~~550 and 551~~ 501 through 552, unless otherwise specified by the Department. (~~10-1-93~~)()

Section 010 - Entire Section

010. FEE SCHEDULE FOR PUBLIC DRINKING WATER SYSTEMS.

All regulated public drinking water systems shall pay an annual drinking water system fee. The fee shall be assessed to regulated public drinking water systems as provided in this section. (10-1-93)

01. Effective Date. Annual fees shall be paid for each fee year beginning October 1, 1993, and

continuing for each succeeding year. (10-1-93)

02. Fee Schedule. (10-1-93)

a. Community and Nontransient noncommunity public drinking water systems shall pay an annual fee according to the following fee schedule:

Number of Connections	Fee
1 to 20	\$100
21 to 184	\$5 per connection, not to exceed a total of \$735 per system
185 to 3,663	\$4 per connection, not to exceed a total of \$10,988 per system
3,664 or more	\$3 per connection

(7-1-97)

b. The annual fee for transient public drinking water systems is twenty-five dollars (\$25). (10-1-93)

c. New public drinking water systems formed after October 1 will not pay a fee until the following October. (10-1-93)

03. Fee Assessment. (10-1-93)

a. An annual fee assessment will be generated for each community and nontransient noncommunity public drinking water system listed in the Department's Safe Drinking Water Information System (SDWISS). (3-15-02)

b. Community and nontransient noncommunity public drinking water systems will be notified each year of the official number of connections listed in SDWISS. Systems will have at least one (1) month to notify the Department if the number of connections listed in SDWISS is not in agreement with the system's records. (3-15-02)

c. The official number of connections listed in SDWISS following each yearly update, as required in Subsection 010.03.b., will be used to calculate the annual fee for community and nontransient noncommunity public drinking water systems for the next fee year of October 1 through September 30. (3-15-02)

04. Billing. An annual fee shall be assessed and a statement will be mailed to all community, nontransient noncommunity, and transient public drinking water systems listed in SDWISS by the Department on or before September 1 of each year. (3-15-02)

05. Payment. (10-1-93)

a. Payment of the annual fee shall be due on October 1, unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment shall be due on the successive business day. Fees paid by check or money order shall be made payable to the Idaho Department of Environmental Quality and sent to 1410 North Hilton Street, Boise, ID 83706-1255. (10-1-93)

b. If a public water system consists of two hundred fifty (250) connections or more, the system may request to divide its annual fee payment into equal monthly or quarterly installments by submitting a request to the Department on the proper request form provided with the initial billing statement. (10-1-93)

c. The Department will notify applicable systems, in writing, of approval or denial of a requested monthly or quarterly installment plan within ten (10) business days of the Department receiving such a request. (10-1-93)

d. If a public water system has been approved to pay monthly installments then each installment shall

be due by the first day of each month, unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the successive business day. (10-1-93)

e. If a public water system has been approved to pay quarterly installments then each installment shall be due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the first successive business day. (10-1-93)

06. Delinquent Unpaid Fees. A public water system will be delinquent in payment if its annual fee assessment has not been received by the Department by November 1; or if having first opted to pay monthly or quarterly installments, its monthly or quarterly installment has not been received by the Department by the last day of the month in which the monthly or quarterly payment is due. (10-1-93)

07. Suspension of Services and Disapproval Designation. (7-1-97)

a. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of ninety (90) days, technical services provided by the Department may be suspended except for the following: (7-1-97)

i. Issuance of monitoring waivers; (7-1-97)

ii. Review and processing of engineering reports; and (7-1-97)

iii. Review of plans and specifications for design and construction as set forth in Sections ~~550 and 551~~ 501 through 552. (7-1-97)()

b. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may suspend all technical services provided by the Department including any of the following: (7-1-97)

i. Review and processing of engineering reports; (7-1-97)

ii. Review of plans and specifications for design and construction as set forth in Sections ~~550 and 551~~ 501 through 552; (7-1-97)()

iii. Renewal of monitoring waivers; or (7-1-97)

iv. Granting of new monitoring waivers. (7-1-97)

c. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may disapprove the public water system pursuant to Subsection 007.06. (7-1-97)

08. Reinstatement of Suspended Services and Approval Status. The suspension of technical services and/or the disapproval of a public water system pursuant to Subsection 010.07 may be reinstated upon payment of delinquent annual fee assessments. (7-1-97)

09. Enforcement Action. Nothing in Section 010 waives the Department's right to undertake an enforcement action at any time, including seeking penalties, as provided in Section 39-108, Idaho Code. (7-1-97)

10. Responsibility to Comply. Subsection 010.07 shall in no way relieve any system from its obligation to comply with all applicable state and federal drinking water statutes, rules, regulations, or orders. (7-1-97)

Subsections 550.07 and 550.17

5501. FACILITY AND DESIGN STANDARDS -- GENERAL DESIGN STANDARDS REQUIREMENTS FOR PUBLIC DRINKING WATER SYSTEMS.

07. Reliability and Emergency Operation. New community water systems constructed after April 15, 2007 are required to have sufficient dedicated on-site standby power, with automatic switch-over capability, and/or storage so that water may be treated and supplied to pressurize the entire distribution system during power outages. During a power outage, the water system shall be able to meet the operating pressure requirements of Subsection 552.01.b. for a minimum of eight (8) hours at average day demand plus fire flow where provided. Standby power provided in a public drinking water system shall be coordinated with the standby power that is provided in the wastewater collection and treatment system. ()

17. Redundant Fire Flow Capacity. ()

a. Public water systems that provide fire flow shall be designed to provide maximum day demand plus fire flow instead of peak hour demand plus fire flow. This allowance is made because distribution pressures can be expected to fall during a fire event and overall demand would be less than peak hour. Pumping systems supporting fire flow capacity must be designed so that fire flow may be provided with the largest pump out of service. ()

b. The requirement for redundant pumping capacity specified in Subsection 501.17.a. may be reduced to the extent that storage is provided in sufficient quantity to meet some or all of fire flow demands. Where storage is not provided, the requirement for fire flow pumping redundancy may be reduced or eliminated if the following conditions are met: ()

i. The local fire authority states in writing that the fire flow capacity of the system is acceptable and is compatible with the water demand of existing and planned fire fighting equipment and fire fighting practices in the area served by the system. ()

ii. In a manner appropriate to the system type and situation, positive notification is provided to customers that describes the design of the system's fire fighting capability and explains how it differs from the requirements of Subsection 501.17.a. The notice shall indicate that the local fire authority has provided written acceptance of the system's fire flow capacity. ()

Subsection 502.04

502. FACILITY AND DESIGN STANDARDS - FACILITY PLANS.
See the definition of Facility Plan in Section 003. ()

04. Engineer's Seal Required. Facility plans submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. ()

Subsections 503.01 and 503.04

503. FACILITY AND DESIGN STANDARDS - PRELIMINARY ENGINEERING REPORTS.
See the definition of Preliminary Engineering Report in Section 003. For all new water systems or material modifications to existing water systems, a preliminary engineering report shall be submitted to the Department for review and approval, or other reviewing authority in the case of water main extensions, prior to the submittal of plans and specifications as required in Subsection 504.03. Preliminary engineering reports are not required for minor or routine distribution system projects designed under a facility plan. This report shall provide the following: ()

01. Engineer's Seal. Preliminary engineering reports submitted to the department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. ()

04. Water Quantity. Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including peak hourly, peak daily, and average *day* demands. ()

Subsection 504.06

504. FACILITY AND DESIGN STANDARDS - REVIEW OF PLANS AND SPECIFICATIONS.

The facility and design standards set forth in these rules shall be applied in the review of plans and specifications for public water system facilities. If design issues are not addressed by the facility and design standards set out in these rules, then guidance documents, some of which are listed in Subsection 002.02., shall be used as guidance in the design and review of plans and specifications for public drinking water facilities. See also Section 013. ()

06. Engineer's Seal Required. Plans and specifications submitted to the department shall bear the imprint of an Idaho licensed professional engineer's seal; except that the Department will accept the seal of an Idaho licensed professional geologist on the following: ()

Subsection 510.02

510. FACILITY AND DESIGN STANDARDS - SITING AND CONSTRUCTION OF WELLS.

~~02.~~ Location. Each well shall be staked by the design engineer or licensed professional geologist prior to drilling, be located a minimum of fifty (50) feet from ~~any potential source of contamination~~ the nearest property line, and be no closer to specified sources of contamination than set forth in Subsection 900.01. In vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination. (5-3-03)()

Section 513

513. FACILITY AND DESIGN STANDARDS - NUMBER OF GROUND WATER SOURCES REQUIRED.

New community water systems served by ground water and constructed after July 1, 1985, or existing community water systems served by ground water that are substantially modified after July, 2002, shall have a minimum of two (2) sources if they are intended to serve more than twenty-five (25) homes or equivalent. Under normal operating conditions, with any source out of service, the remaining source or sources shall be capable of providing either the peak hour demand of the system or maximum day demand plus equalization storage. See Subsection 501.17 for general design requirements concerning fire flow capacity. For the purpose of Section 513 only, the Department shall consider a system to be "substantially modified" when there is a combined increase of twenty-five percent (25%) or more above the system's existing configuration in the following factors: ()

Subsections 541.02 and 541.04.c.

541. FACILITY AND DESIGN STANDARDS - PUMPING FACILITIES.

Pumping facilities shall be designed to maintain the sanitary quality of pumped water. ()

02. Pumping Units. At least two (2) pumping units shall be provided for raw water and surface source pumps. Pumps using seals containing mercury shall not be used in public drinking water system facilities. With any pump out of service, the remaining pump or pumps shall be capable of providing the peak hour demand of the system or maximum day demand plus equalization storage. See Subsection 501.17 for general design requirements concerning fire flow capacity. The pumping units shall meet the following requirements: ()

04. Booster Pumps. In addition to other applicable requirements in Section 541, booster pumps must comply with the following: ()

a. In-line booster pumps shall maintain an operating pressure that is consistent with the requirements specified in Subsection 552.01, and shall be supplied with an automatic cutoff when intake pressure is less than or equal to five (5) psi. ()

b. Booster pumps with a suction line directly connected to any storage reservoirs shall be protected by an automatic cutoff to prevent pump damage and avoid excessive reservoir drawdown. ()

c. Each booster pumping station shall contain not less than two (2) pumps with capacities such that peak hour demand, or maximum day demand plus equalization storage, can be satisfied with the largest pump out of service. See Subsection 501.17 for general design requirements concerning fire flow capacity. ()

Subsection 544.01

544. FACILITY AND DESIGN STANDARDS - GENERAL DESIGN OF FINISHED WATER STORAGE.

The materials and designs used for finished water storage structures shall provide stability and durability as well as protect the quality of the stored water. Steel structures such as steel tanks, standpipes, reservoirs, and elevated tanks shall be designed and constructed in accordance with applicable AWWA Standards, incorporated by reference into these rules at Subsection 002.01. Other materials of construction are acceptable when properly designed to meet the requirements of Section 544. ()

01. Sizing. Storage facilities shall have sufficient capacity, as determined from engineering studies that consider peak flows, fire flow capacity, and analysis of the need for various components of finished storage as defined under the term "Components of Finished Water Storage" in Section 003. The requirement for storage may be reduced when the source and treatment facilities have sufficient capacity with standby power to supply peak demands of the system. ()

Subsection 552.01.b.i.

552. FACILITY AND DESIGN STANDARDS -- OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.

01. Quantity and Pressure Requirements. (12-1-92)

a. Minimum Quantity. The capacity of a public drinking water system shall in no instance be less than eight hundred (800) gallons per day per residence, plus irrigation flows. (5-3-03)

b. ~~Minimum~~ Pressure. If the Department receives a complaint from a customer or customers of a public drinking water system regarding inadequate or excessive pressure, the Department may, after initial investigation by the water system or the Department, require the public water system to conduct a local pressure monitoring study to diagnose and correct pressure problems. (~~12-1-92~~)()

i. Any public water system shall be capable of providing sufficient water during ~~maximum hourly day~~ demand conditions, ~~(including fire flow)~~ to maintain a minimum pressure of twenty (20) psi throughout the distribution system, at ground level, as measured at the service connection or along the property line adjacent to the consumer's premises. (~~4-11-06~~)()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.16 - WASTEWATER RULES

DOCKET NO. 58-0116-0502

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-ninth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 2, 2006, Vol. 06-8, pages 235 through 284. After consideration of public comments, the proposed rule has been revised at Sections 004, 401, 410, 411, 430, 440, 441, 450, 455, 490, 493, and 500. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/wastewater/58_0116_0502_pending.cfm or by contacting the undersigned.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in the Wastewater Rules. Therefore, the changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government.” The Wastewater Rules address the review and approval of plans and specifications for sewage treatment plants and other waste treatment and disposal facilities and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. Therefore, Section 39-107D, Idaho Code, applies.

Section 39-107D(3), Idaho Code, provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The Wastewater Rules include facility and design standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of wastewater systems. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility and design standards are based upon guidelines set forth in documents, such as the “Recommended Standards for Wastewater Facilities”, that are generally accepted and used throughout the United States by engineers and state regulators.

GENERAL INFORMATION: For more information about DEQ’s programs and activities, visit DEQ’s web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Mark Mason, mark.mason@deq.idaho.gov, (208) 373-0266.

Dated this 16th day of November, 2006.

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DOCKET NO. 58-0116-0502 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 235 through 284.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0116-0502

Section 004

004. INCORPORATION BY REFERENCE.

Sections 401.2.9, 401.3.4 and 401.3.6, ~~and~~ 501.3.4, and 505.3.3 of "Idaho Standards for Public Works Construction," 2005 Edition, are incorporated by reference into these rules. These documents are available at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502 or, for a fee, from the Local Highway Technical Assistance Council (LHTAC) at LHTAC, 3330 Grace Street, Boise, ID, 83703, (208) 344-0565.

(4-11-06)(_____)

Subsection 401.02

401. REVIEW OF PLANS FOR NONMUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES.

02. Deviations from Approved Plans. No *material* deviations are to be made from the approved plans and specifications without prior approval of the Department. (4-11-06)

Subsections 410.01 and 410.04

410. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES -- ~~ENGINEERING REPORTS AND FACILITY PLANS.~~

01. ~~Engineering Reports and Facility Plans Required.~~ ~~Engineering Reports and current Facility Plans are required for All new municipal wastewater treatment or disposal facilities, and all existing municipal wastewater treatment or disposal facilities undergoing material modification or expansion, are required to have a current Facility Plan that shall address all applicable issues specifically required in Sections 410 and 412 through 599 of these rules including, but not limited to, and shall address hydraulic capacity, treatment capacity, project financing, and operation and maintenance considerations sufficiently to determine the effects of the project on the overall wastewater infrastructure. Engineering Reports must be completed for minor collection system, pump station, and interceptor projects. Comprehensive Facility Plans are not required for minor or routine collection systems. Comprehensive Facility Plans must be completed or have been completed for projects involving new, expanded, Material modification or expansion that requires a Facility Plan includes upgraded, or rehabilitated municipal wastewater treatment or disposal facilities and major collection, interceptor sewer, and pump station projects, and Facility Plans must address the entire potential service area of the project. Facility Plans are not required for minor or routine collection system projects or, at the Department's discretion, temporary lift stations. The determination of classification as major or minor collection interceptor sewer and pump station projects will be made by the reviewing authority Department based on review of the owner's recommended classification by the owner. A Facility Plan may be completed for collection systems only. If such a collection system Facility Plan is conducted, and flows increase in excess of the design capacity of downstream collection and treatment facilities, the impact of the flow shall be addressed in the Facility Plan.~~ (4-11-06)()

04. ~~Engineer's Seal Required.~~ ~~Facility Plans submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer.~~ ()

Subsections 411.01 and 411.04

411. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - PRELIMINARY ENGINEERING REPORTS.

01. ~~Preliminary Engineering Reports Required.~~ ~~Preliminary Engineering Reports are required for municipal wastewater treatment or disposal facility projects that require plan and specification review and approval pursuant to Subsection 400.01 and shall address all applicable issues specifically required in Sections 411 through 599 of these rules including, but not limited to, purpose, scope, hydraulic capacity, treatment capacity, and operation and maintenance considerations sufficiently to determine the effects of the project on the overall wastewater infrastructure. Preliminary Engineering Reports must be completed for major collection system projects, and all pump station projects, all interceptor projects, and all treatment plant designs and upgrades. The determination of classification as major or minor collection system projects will be made by the Department based on review of the owner's recommended classification. Preliminary Engineering Reports are not required for minor or routine collection system projects.~~ ()

04. ~~Engineer's Seal Required.~~ ~~Preliminary Engineering Reports submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer.~~ ()

Subsections 430.02.a., 430.02.d.i., and 430.02.k.iv.

430. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES -- DESIGN AND CONSTRUCTION OF WASTEWATER PIPELINES.

01. ~~Design Capacity and Design Flow.~~ ~~In general, sewer capacities shall be designed for the estimated ultimate tributary population, except in considering parts of the systems that can be readily increased in capacity.~~ (4-11-06)

02. ~~Details of Design and Construction.~~ (4-11-06)

a. ~~Minimum Pipe Size.~~ ~~Minimum pipe size for gravity sewer mains shall be eight (8) inches in~~

diameter. Minimum pipe size for gravity sewer services shall be four (4) inches in diameter. Pipe diameters larger than these minimums shall be based on cleaning capability and hydraulic capacity, and shall conform with the required planning documents. (4-11-06)(____)

d. Slope. Gravity wastewater pipelines shall be designed to have sufficient slope and velocity to “self clean” or transport constituent solids to the treatment facility. ~~or Justification for these slopes shall be included in the Preliminary Engineering Report and shall be based on widely used guidance documents or published friction coefficients and Manning’s formula.~~ (____)

i. If the current or future ownership of the system is by a city, county, quasi-municipal corporation or regulated public utility and the velocities are less than self cleaning, the owner shall, periodically as a condition of the Department’s approval of plans and specifications, provide justification for the lower velocities and commit to, at a minimum, annually service wastewater pipelines to flush, transport, or remove solids from wastewater pipelines with minimal velocities. This would include the use of cutting tools for roots, vector trucks, and any other method required to keep the pipelines clean, intact and flowing. That commitment shall be in the form of a letter from both the owner and the future owner entity stating said commitment, and shall include a discussion of the current and future owners’ capacity to do said flushing. (4-11-06)(____)

k. Wastewater Pipelines in Relation to Surface Water Bodies. The top of all wastewater pipelines entering or crossing surface water bodies shall be at a sufficient depth below the natural bottom of the bed or otherwise designed to protect the wastewater pipeline. (4-11-06)

iv. Materials. Wastewater pipelines entering or crossing surface water bodies shall be constructed of water transmission pressure rated pipe with restrained joints conforming to Section 401.2.9 of the “Idaho Standards for Public Works Construction,” incorporated by reference into these rules at Section 004, or other suitable pipe with restrained joints capable of being installed to remain watertight and free from changes in alignment or grade. Material used to back-fill the trench shall be concrete slurry, stone, coarse aggregate, washed gravel, or other materials which will not readily erode, cause siltation, damage pipe during placement, or corrode the pipe. (4-11-06)(____)

Subsection 440.02.e.ii.

440. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - WASTEWATER PUMPING STATIONS.

02. Design. Design of wastewater pumping stations shall meet the applicable requirements of Subsections 440.02.a. through 440.02.i. (____)

e. Valves. (____)

i. Suction Line. Suitable shutoff valves shall be placed on the suction lines of dry pit pumps. (____)

ii. Discharge Line. Suitable shutoff and check valves shall be placed on the discharge line of each pump (except on screw pumps). The check valve shall be located between the shutoff valve and the pump. Check valves shall be suitable for the material being handled and shall be placed on the horizontal portion of the discharge piping except for ball checks, which may be placed in the vertical run. Valves shall be capable of withstanding normal pressure and water hammer. All shutoff and check valves shall be operable from the floor level and accessible for maintenance. Outside levers are recommended on swing check valves. (____)

Subsections 441.01 and 440.04

441. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - INDIVIDUAL RESIDENCE WASTEWATER PUMPING STATIONS.

01. General. Section 441 regulates individual residence pump stations, individual residence grinder pump stations, and individual residence septic tank effluent pump stations. *However, this rule does not regulate grinder pumps or their vaults that are inside of individual residences or other structures.* ()

04. Alarm Systems. Audio-visual alarm systems shall be provided for pumping stations. The alarm shall be activated in cases of wet well high water levels *and shall be visible from the outside of the structure.* ()

Subsection 450.01.c.

450. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - WASTEWATER TREATMENT FACILITIES - GENERAL.

01. Plant Location. ()

c. Setback Distances. New treatment and storage facilities for wastewater treatment shall have a minimum setbacks from their property line *as follows. For facilities open to the atmosphere such as lagoons, open clarifiers, open aeration basins, and other such facilities, the minimum setback to property zoned as residential shall be three hundred (300) feet. If the property with such open facilities is adjacent to property zoned as commercial or industrial, a lesser setback will be considered by the Department on a case by case basis. For totally enclosed facilities with noise and odor controls, the minimum setback shall be fifty (50) feet if approved by the Department.* Neighboring property owners may grant long term easements or other types of legal documents tied to the land to allow for similar setbacks from future development or public use. ()

Subsection 455.04.d.

455. PRIVATE COMMUNITY MUNICIPAL WASTEWATER TREATMENT PLANTS.

04. Private Community Municipal Wastewater Treatment Plants. ()

d. The private community municipal wastewater treatment plant shall be a dual train type (or equivalent/greater) with redundant pumps and blowers from influent works to the disposal site. Standby or emergency power shall be provided to fully operate the wastewater treatment plant during a power outage unless the water system would also be out during a power outage. ()

Subsections 490.02.d.i. and 490.02.d.ii.

490. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - BIOLOGICAL TREATMENT.

If biological treatment is used, the process shall be determined in the Preliminary Engineering Report. The choice shall be based on influent characteristics and effluent requirements. ()

02. Activated Sludge. ()

d. Sequencing Batch Reactors. The fill and draw mode of the activated sludge process commonly termed the Sequencing Batch Reactor may be used in Idaho. The design must be based on experience at other facilities and shall meet the applicable requirements under Sections 450, 470 and 490, except as modified in Subsection 490.02.d.i. through 490.02.d.xi. Continuity and reliability of treatment equal to that of the continuous flow through modes of the activated sludge process shall be provided. ()

i. At least two (2) tanks shall be provided. ()

ii. The decantable volume and decanter capacity of the sequencing batch reactor system with the largest basin out of service shall be sized to pass at least seventy-five (75) percent of the design maximum day flow without changing cycle times. A decantable volume of at least four (4) hours with the largest basin out of service based on one hundred (100) percent of the design maximum day flow is permissible. ()

Subsections 493.02 and 493.09.b.ii.

493. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - WASTEWATER LAGOONS.

02. Seepage Testing Requirements. All existing lagoons covered under these rules shall be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision by April 15, 2012 unless otherwise specified in a current permit issued by the Director, and, as part of the construction process, all new lagoons must be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision. All lagoons covered under these rules must be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision every five (5) years after the initial testing. The procedure for performing a seepage test or alternative analysis must be approved by the Department, and the test results must be submitted to the Department. If an existing lagoon has had seepage testing done and results submitted to the Department before April 15, 2012, the owner of that lagoon has five (5) years from the date of the testing to comply with this requirement. ()

09. Pond Construction Details. ()

b. Pond Bottom. ()

ii. Seal. Ponds shall be sealed such that seepage loss through the seal complies with Subsection 493.03. Results of a testing program which substantiates the adequacy of the proposed seal must be incorporated into and/or accompany the Preliminary Engineering Report. ()

Subsections 500.01, 500.02.a., 500.02.a.ii., and 500.02.a.iii.

500. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES - DISINFECTION.

01. General. Disinfection of the effluent shall be provided as necessary to meet applicable standards. The design of new municipal wastewater treatment facilities, or municipal wastewater treatment facilities undergoing material modifications, shall consider meeting both the bacterial standards and the disinfectant residual limit in the effluent. The disinfection process shall be selected after due consideration of waste characteristics, type of treatment process provided prior to disinfection, waste flow rates, pH of waste, disinfectant demand rates, current technology application, cost of equipment and chemicals, power cost, and maintenance requirements as determined in the Preliminary Engineering Report. Where a disinfection process other than chlorination or ultraviolet disinfection is proposed, supporting data from pilot plant installations or similar full scale installations shall be required as a basis for the design of the system. ()

02. Determining the Necessity for Disinfection of Municipal Wastewater Treatment Facility Effluent. ()

a. Disinfection of municipal wastewater treatment facility effluent shall be required when: ()

i. Required by an NPDES permit; or ()

ii. The effluent is discharged to a land application/reuse facility and is required to meet the disinfection requirements found in IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater." ()

iii. The effluent discharged to a land application/reuse facility, where ground water contamination has exceeded the bacterial limit found in IDAPA 58.01.11, "Ground Water Quality Rules," and it has been determined by the Department that disinfection is required. ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.17 - RULES FOR THE RECLAMATION AND REUSE OF MUNICIPAL AND INDUSTRIAL WASTEWATER

DOCKET NO. 58-0117-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment *sine die* of the First Regular Session of the Fifty-ninth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Title 39, Chapter 1, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 2, 2006, Vol. 06-8, pages 285 through 304. After consideration of public comments, the proposed rule has been revised at Sections 600 and 601. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/waste_water/58_0117_0601_pending.cfm or by contacting the undersigned.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations. There is no federal law or regulation that is comparable to the Rules for Reclamation and Reuse of Municipal and Industrial Wastewater. Therefore, the changes to the rule are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government.” This rule does regulate an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code. Information relating to Section 39-107D(2) has also been provided. The requirements set forth in this rule are based upon best available peer reviewed science and studies and analyses conducted by other states, the U.S. Environmental Protection Agency (EPA), and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analyses will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(2)(a), Idaho Code. To the degree that a department action is based on science the department shall utilize the best available peer reviewed science and supporting studies conducted in accordance with sound objective scientific practices.

The filtration/chorine disinfection process Class A requirements relating to virus reduction have been shown in studies supporting The State of California Department of Health Services Treatment Technology Report for Recycled Water (Treatment Technology Report for Recycled Water), <http://www.dhs.ca.gov/ps/ddwem/publications/waterrecycling/treatmenttechnology.pdf>,

to achieve a five (5)-log reduction in virus. There have been numerous Ultra-Violet (UV) process studies by manufacturers that show that they can also meet this five (5)-log reduction in virus. The actual five (5)-log reduction in virus level now stated in the rule is the accepted norm throughout the reuse industry in the United States for Class A levels of reuse. The requirements set forth in this rule are based upon best available peer reviewed science and studies and analyses conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analyses will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(2)(b), Idaho Code. To the degree that a department action is based on science the department shall utilize data collected by accepted methods or best available methods if the reliability of the method and

the nature of the decision justifies use of the data.

Data were not collected or analyzed by DEQ as part of this rulemaking process. DEQ relied on information readily available to the public from federal and state government publications and articles from scientific professional journals.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects.

The limits placed on wastewater treatment in the stated modifications are for both public health and environmental effects. The population affected by these limits includes the residents and users of facilities being irrigated by this wastewater effluent and the potential users of down-gradient beneficial uses of groundwater being recharged by this wastewater effluent.

Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk.

The expected risk of exposure to this quality of wastewater effluent for each of these populations is as follows.

The expected risk for nitrate contamination on ground water is low. For nitrate from the wastewater effluent entering the ground water and affecting down-gradient beneficial users for drinking water (either directly or indirectly), the limits are based on IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and IDAPA 58.01.11, "Ground Water Quality Rule." These standards are based on past studies by EPA determining the adverse health effects on infants from nitrate in drinking water.

The expected risk for pathogen contamination for affected populations is low. For pathogens in the wastewater effluent, the coliform limits are based on IDAPA 58.01.17, "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater." For virus contamination using Class A wastewater, the expected risk is low. The rules include additional disinfection requirements that are meant to lower virus levels such that the Class A effluent can be handled by workers and homeowners with minimal risk. Associated additional requirements regarding treatment, buffer zones, reliability and redundancy are included to give additional assurance that the limits are attained consistently.

The expected risk of cross-connections from the wastewater effluent distribution system to the drinking water distribution system is low. There are multiple requirements put on the distribution system of the wastewater effluent. These requirements provide the affected populations with safeguards against contamination of their drinking water system from parallel or crossing main lines. These requirements also protect against contamination of their wastewater effluent system by raw sewage in parallel or crossing main lines.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty.

The limits placed on wastewater treatment in the stated modifications are for both public health and environmental effects. The limits in these rule modifications are based on limits and standards used by other states and as promoted by national water reuse organizations. Although Idaho's wastewater land application permit program has been in effect for many years utilizing treated effluent for agricultural and municipal beneficial irrigation, the use of highly treated wastewater for higher beneficial uses is an evolving industry throughout the United States and the world. These higher uses, involving almost unrestricted use and unrestricted access by the general public, call for higher treatment and monitoring requirements to protect the affected populations. The uncertainty in assessing the health and environmental effects is believed to be minimal, but not zero.

Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data. The use of the 10 mg/l for nitrate is based on the existing Ground Water Quality Rule and the existing Idaho Rules for Public Drinking Water Systems. The use of the 2.2 total coliform limit is currently in the Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater. The filtration/chorine disinfection process Class A requirements relating to virus reduction have been shown in studies supporting the Treatment Technology Report for Recycled Water to achieve a five (5)-log reduction in virus. There have been numerous ultra-violet (UV) process studies by manufacturers that show that they can also meet this five (5)-log reduction in virus. The actual five (5)-log reduction in virus level now stated in the rule is the

accepted norm throughout the reuse industry in the United States for Class A levels of Reuse.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Mark Mason, mark.mason@deq.idaho.gov, (208) 373-0266.

Dated this 16th day of November, 2006.

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DOCKET NO. 58-0117-0601 - ADOPTION OF PENDING RULE

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-8, August 2, 2006, pages 285 through 304.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2007 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0117-0601

Subsections 600.08

600. SPECIFIC PERMIT CONDITIONS.

08. Direct Use of Municipal Reclaimed Wastewater -- Classification Table. The following table ~~further describes~~ provides a brief summary of the requirements for direct use of municipal reclaimed wastewater outlined in Subsection 600.07. If there are discrepancies between Subsections 600.07 and 600.08, the requirements of Subsection 600.07 prevail.

Classification Table					
Classification	Class A	Class B	Class C	Class D	Class E
Treatment	This is a partial list - see Section 601 for more detail: Oxidized, clarified, and coagulated, with filtration approval requirements or treated by an equivalent process, plus nutrient removal requirements, turbidity limits requirements, adequately disinfected and tested.	Oxidized, coagulated, clarified, and filtered, or treated by an equivalent process, turbidity limits requirements, and adequately disinfected and tested.	Oxidized and adequately disinfected	Oxidized and adequately disinfected	At least primary effluent quality
Disinfection	Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters	Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters	Total coliform organisms does not exceed twenty three (23) per one hundred (100) milliliters	Total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters	Total coliform organisms up to "too numerous to count"

Classification Table					
Classification	Class A	Class B	Class C	Class D	Class E
Uses	<p>May be used for residential irrigation at individual homes; ground water recharge using surface spreading, seepage ponds, or other unlined surface water features; ground water recharge using subsurface distribution; fire suppression from dedicated, marked hydrants; dust suppression at construction sites; toilet flushing at industrial and commercial sites; or Class B, C, D, or E uses. Other requirements apply for ground water uses. See Subsection 600.07.a.</p>	<p>May contact any edible portion of raw food crops; or is may be used to irrigate golf courses, parks, playgrounds, schoolyards; may be used for toilet flushing at industrial and commercial sites; or Class C, D, or E uses. See Subsection 600.07.b.</p>	<p>May be used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground, or will only contact the unedible portion of raw food crops; or is may be used to irrigate cemeteries, or roadside vegetation; may be used for toilet flushing at industrial and commercial sites; or Class D or E uses. See Subsection 600.07.c.</p>	<p>May be used to irrigate fodder, seed, or processed food crops; or Class E uses. See Subsection 600.07.d.</p>	<p>May be used to irrigate forested sites. See Subsection 600.07.e.</p>
Access Restriction	Irrigated during periods of non-use.	Irrigated during periods of non-use by the public.	Irrigated during periods of non-use by the public.	Public access restricted.	Public access restricted.
Signing and Posting	See Subsection 601.02	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater

Classification Table					
Classification	Class A	Class B	Class C	Class D	Class E
Buffer Distances	No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required. <u>One hundred (100) feet minimum to drinking water wells.</u>	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater. No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required.	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater. No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required.	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater. No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required.	1000 ft. to inhabited dwellings and areas accessible to the public. No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required.
Grazing	Grazing allowed only with approved grazing management plan.	Grazing allowed only with approved grazing management plan.	Grazing allowed only with approved grazing management plan.	Grazing not allowed.	Grazing not allowed.

(4-11-06)()

Subsections 601.02, 601.07.c., 601.07.d., and 601.08.h.

601. CLASS A EFFLUENT MUNICIPAL RECLAIMED WASTEWATER -- ADDITIONAL REQUIREMENTS.

02. Distribution System Requirements. Class A distribution systems and the continued distribution systems of all of its customers shall have specific requirements including, but not limited to: (4-6-05)

b. Distribution Lines. (4-6-05)

ii. Class A Effluent Pipe Identification. (4-6-05)

(1) **General.** All new buried pipe, including service lines, valves, and other appurtenances, shall be colored purple, Pantone 512 or equivalent. If fading or discoloration of the purple pipe is experienced during construction, identification tape or locating wire along the pipe is required. Label piping every ten (10) feet "Caution: Reclaimed Wastewater - Do Not Drink" *in both Spanish and English lettering.* (4-6-05)(10-17-06)T

(2) **Identification Tape.** If identification tape is installed along with the purple pipe, it shall be prepared with white or black printing on a purple field, color Pantone 512 or equivalent, having the words, "Caution: Reclaimed Wastewater - Do Not Drink" *in both Spanish and English lettering.* The overall width of the tape shall be at least three (3) inches. Identification tape shall be installed eighteen (18) inches above the transmission pipe longitudinally, shall be centered over the pipe, and shall run continuously along the length of the pipe. (4-6-05)(10-17-06)T

d. Pumping Facilities. (4-6-05)

i. Marking. All exposed and above ground piping, risers, fittings, pumps, valves, etc., shall be painted purple, Pantone 512. In addition, all piping shall be identified using an accepted means of labeling reading "Warning: Reclaimed Wastewater - Do Not Drink" in both Spanish and English lettering. In a fenced pump station area, signs shall be posted on the fence on all sides. ~~(4-6-05)~~(10-17-06)T

e. Other Requirements. (4-6-05)

iv. Warning Labels. Warning labels shall be installed on designated facilities such as, but not limited to, controller panels and washdown or blow-off hydrants on water trucks, hose bibs, and temporary construction services. The labels shall read, "Warning: Reclaimed Wastewater - Do Not Drink" in both Spanish and English lettering. ~~(4-6-05)~~(10-17-06)T

v. Warning signs. Where reclaimed water is stored or impounded, or used for irrigation in public areas, warning signs shall be installed and contain, at a minimum, one (1) inch purple letters (Pantone 512 or equivalent) on a white or other high contrast background notifying the public that the water is unsafe to drink. Signs may also have a purple background with white or other high contrast lettering. Warning signs and labels shall read, "Warning: Reclaimed Wastewater - Do Not Drink" in both Spanish and English lettering. ~~The signs shall include the international symbol for Do Not Drink.~~ ~~(4-6-05)~~(10-17-06)T

07. Reliability and Redundancy Requirements. (4-6-05)

c. Standby Power sufficient to maintain all treatment and distribution works shall be required for the Class A effluent use. An alternative to this is to provide standby power sufficient for basic treatment and for automatic by-pass of filtration directly to an alternative permitted disposal option ~~or diversion to lined storage~~. ~~(4-6-05)~~()

d. Standby treatment filter units in fully operable condition capable of treating peak flow, with the largest filter unit out of service, shall be plumbed and wired in place for immediate use. Peak flow is defined for the purpose of this rule to mean the peak day flow of the plant anticipated for the season in which Class A effluent is being produced. An alternative to this is automatic by-pass of filtration directly to an alternative permitted disposal option ~~or diversion to lined storage~~. ~~(4-11-06)~~()

08. Other Class A Effluent Requirements. (4-6-05)

h. Requirements for mixing Class A effluent with other irrigation waters. Mixing Class A effluent with other irrigation waters may be conducted in a pipe to pipe manner if both the other irrigation water source and the Class A source are protected by Department approved backflow devices. Class A effluent may be mixed with other irrigation water in an unlined pond if the Class A effluent is permitted for aquifer recharge. Class A effluent that is permitted for irrigation only and not aquifer recharge may be mixed with other irrigation water only in a lined pond. Water from these mixed ponds may then be used for permitted Class A uses. If any of the water from these mixed ponds ultimately discharges to a canal, drain or other surface water, an NPDES permit may be required due to the presence of effluent in the mixed water. A downstream water user does not need a permit under these rules when mixed effluent/irrigation water is used after it is discharged, in accordance with these rules, to a canal, drain or other surface water. ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.17 - RULES FOR THE RECLAMATION AND REUSE OF MUNICIPAL
AND INDUSTRIAL WASTEWATER

DOCKET NO. 58-0117-0701

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The temporary rule was effective November 17, 2006.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that the Board of Environmental Quality (Board) has adopted a temporary rule. This action is authorized by Title 39, Chapter 1, Idaho Code.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) has initiated this rulemaking to address the following issues:

1. Add the ability for DEQ to issue some permits for up to 5 years without a complete application package or staff analysis. This would be for permits where little change is needed in the existing permit and application content from the previous permit application is already available. Summary information for the last permit cycle and anticipated impacts would still be necessary.
2. Add more extensive disinfection requirements for Class A effluent, including concentration/contact time (CT) requirements for chlorine disinfection and other requirements for Class A UV disinfection. This is to control virus levels in the effluent.
3. Add other uses for Class A effluent including subsurface distribution for groundwater recharge, fire suppression, dust suppression, and commercial toilet flushing. Use only for commercial toilet flushing could allow for lower levels of treatment if the engineering report showed proof of protection of public health.
4. Add requirements for mixing Class A effluent with other irrigation waters.
5. Change the effluent turbidity limit for membrane filters from 2 NTU to 0.2 NTU.
6. Add Class A granular media filter loading limits up to 5 gpm/ft².
7. Add clarification for peak flow meaning peak day flow.
8. Add clarification for reliability and redundancy.

This temporary rule is the same text as the pending rule adopted by the Board under Docket No. 58-0117-0601 (published in this volume of the Idaho Administrative Bulletin) with the exception of references to IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," found in Section 003, Incorporation by Reference, and Subsection 601.02.b., Distribution Lines.

This temporary rule incorporates by reference IDAPA 58.01.08, Subsections 550.06 and 550.07, as codified in the 2006 Idaho Administrative Code. Under Pending Rule Docket No. 58-0108-0602 (published in this volume of the Idaho Administrative Bulletin), IDAPA 58.01.08, Sections 550.06 and 550.07 will be revised and renumbered to Sections 542 and 543, respectively. Pending Rule Docket No. 58-0117-0601 incorporates by reference IDAPA 58.01.08, Sections 542 and 543, as those sections will be codified in the 2007 Idaho Administrative Code. Both pending rule dockets (58-0108-0602 and 58-0117-0601) are expected to become final and effective upon the adjournment sine die of the 2007 legislative session if approved by the Legislature. This temporary rule will expire at that time.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is necessary in order to protect public health and to confer a benefit. The benefits include much simpler permit extensions for many permittees and the addition of other uses for Class A effluent, including dust suppression, fire suppression, and commercial toilet flushing.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations. There is no federal law or regulation that is comparable to the Rules for Reclamation and Reuse of Municipal and Industrial Wastewater. Therefore, the changes to the rule are not broader in scope or more

stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government.” This rule does regulate an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code. Information relating to Section 39-107D(2) has also been provided. The requirements set forth in this rule are based upon best available peer reviewed science and studies and analyses conducted by other states, the U.S. Environmental Protection Agency (EPA), and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analyses will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(2)(a), Idaho Code. To the degree that a department action is based on science the department shall utilize the best available peer reviewed science and supporting studies conducted in accordance with sound objective scientific practices.

The filtration/chorine disinfection process Class A requirements relating to virus reduction have been shown in studies supporting The State of California Department of Health Services Treatment Technology Report for Recycled Water (Treatment Technology Report for Recycled Water), <http://www.dhs.ca.gov/ps/ddwem/publications/waterrecycling/treatmenttechnology.pdf>, to achieve a five (5)-log reduction in virus. There have been numerous Ultra-Violet (UV) process studies by manufacturers that show that they can also meet this five (5)-log reduction in virus. The actual five (5)-log reduction in virus level now stated in the rule is the accepted norm throughout the reuse industry in the United States for Class A levels of reuse. The requirements set forth in this rule are based upon best available peer reviewed science and studies and analyses conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analyses will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(2)(b), Idaho Code. To the degree that a department action is based on science the department shall utilize data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.

Data were not collected or analyzed by DEQ as part of this rulemaking process. DEQ relied on information readily available to the public from federal and state government publications and articles from scientific professional journals.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects.

The limits placed on wastewater treatment in the stated modifications are for both public health and environmental effects. The population affected by these limits includes the residents and users of facilities being irrigated by this wastewater effluent and the potential users of down-gradient beneficial uses of groundwater being recharged by this wastewater effluent.

Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk.

The expected risk of exposure to this quality of wastewater effluent for each of these populations is as follows.

The expected risk for nitrate contamination on ground water is low. For nitrate from the wastewater effluent entering the ground water and affecting down-gradient beneficial users for drinking water (either directly or indirectly), the limits are based on IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” and IDAPA 58.01.11, “Ground Water Quality Rule.” These standards are based on past studies by EPA determining the adverse health effects on infants from nitrate in drinking water.

The expected risk for pathogen contamination for affected populations is low. For pathogens in the wastewater effluent, the coliform limits are based on IDAPA 58.01.17, “Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater.” For virus contamination using Class A wastewater, the expected risk is low. The rules include additional disinfection requirements that are meant to lower virus levels such that the Class A effluent can be handled

by workers and homeowners with minimal risk. Associated additional requirements regarding treatment, buffer zones, reliability and redundancy are included to give additional assurance that the limits are attained consistently.

The expected risk of cross-connections from the wastewater effluent distribution system to the drinking water distribution system is low. There are multiple requirements put on the distribution system of the wastewater effluent. These requirements provide the affected populations with safeguards against contamination of their drinking water system from parallel or crossing main lines. These requirements also protect against contamination of their wastewater effluent system by raw sewage in parallel or crossing main lines.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty.

The limits placed on wastewater treatment in the stated modifications are for both public health and environmental effects. The limits in these rule modifications are based on limits and standards used by other states and as promoted by national water reuse organizations. Although Idaho's wastewater land application permit program has been in affect for many years utilizing treated effluent for agricultural and municipal beneficial irrigation, the use of highly treated wastewater for higher beneficial uses is an evolving industry throughout the United States and the world. These higher uses, involving almost unrestricted use and unrestricted access by the general public, call for higher treatment and monitoring requirements to protect the affected populations. The uncertainty in assessing the health and environmental effects is believed to be minimal, but not zero.

Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data. The use of the 10 mg/l for nitrate is based on the existing Ground Water Quality Rule and the existing Idaho Rules for Public Drinking Water Systems. The use of the 2.2 total coliform limit is currently in the Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater. The filtration/chorine disinfection process Class A requirements relating to virus reduction have been shown in studies supporting the Treatment Technology Report for Recycled Water to achieve a five (5)-log reduction in virus. There have been numerous ultra-violet (UV) process studies by manufacturers that show that they can also meet this five (5)-log reduction in virus. The actual five (5)-log reduction in virus level now stated in the rule is the accepted norm throughout the reuse industry in the United States for Class A levels of Reuse.

NEGOTIATED RULEMAKING: The text of this rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published under Docket No. 58-0117-0601 in the Idaho Administrative Bulletin, April 5, 2006, Vol. 06-4, page 105.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Mark Mason, mark.mason@deq.idaho.gov, (208) 373-0266.

DATED this 16th day of November, 2006.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
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THE FOLLOWING IS THE TEXT OF TEMPORARY RULE DOCKET NO. 58-0117-0701

003. INCORPORATION BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 003.02 shall constitute the full adoption by reference. (4-6-05)

02. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (4-6-05)

a. IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06, as codified in the 2005~~6~~ Idaho Administrative Code. (~~4-11-06~~)(11-17-06)T

b. IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.07, as codified in the 2005~~6~~ Idaho Administrative Code. (~~4-11-06~~)(11-17-06)T

03. Availability of Documents Incorporated by Reference. Copies of the documents incorporated by reference are available at the following locations. (4-6-05)

a. Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, www.deq.idaho.gov. (4-11-06)

b. Idaho Administrative Rules website, <http://www.state.id.us/adm/adminrules/agyindex.htm>. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

008. REFERENCED MATERIALS.

01. Idaho Guidance for the Reclamation and Reuse of Municipal and Industrial Wastewater. This document, and subsequent revisions of this document, provides assistance in applying and interpreting these rules relating to permitting and operations of reclamation and reuse facilities. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, http://www.deq.idaho.gov/water/permits_forms/permitting/guidance.cfm. (11-17-06)T

02. Idaho Wastewater Rules, IDAPA 58.01.16. The Idaho Wastewater Rules are available at <http://adm.idaho.gov/adminrules/rules/idapa58/0116.pdf>. (11-17-06)T

03. Treatment Technology Report for Recycled Water. The State of California Department of Health Services Treatment Technology Report for Recycled Water, <http://www.dhs.ca.gov/ps/ddwem/publications/waterrecycling/treatmenttechnology.pdf>. (11-17-06)T

(BREAK IN CONTINUITY OF SECTIONS)

200. DEFINITIONS.

For the purpose of these rules the following definitions apply unless another meaning is clearly indicated by context: (4-1-88)

01. Applicant. The person applying for a reclamation and reuse permit. (4-11-06)

- 02. Applicable Requirements.** Any state, local or federal statutes, regulations or ordinances to which the facility is subject. (4-1-88)
- 03. Board.** The Idaho State Board of Environmental Quality. (12-31-91)
- 04. Buffer Distances.** (4-11-06)
- a.** The distances between the actual point of reuse of reclaimed wastewater and other uses such as wells, adjoining property, inhabited dwellings, and other features. Buffer distances are set to: (4-11-06)
- i.** Protect public health by limiting exposure to wastewater and conditions associated with reuse facilities; (4-11-06)
- ii.** Protect waters of the state, including surface water, ground water and drinking water supplies; and (4-11-06)
- iii.** Help ensure that wastewater is restricted to the reuse facilities. (4-11-06)
- b.** In determining buffer distances, the Department will consider, as applicable, the degree of treatment or pretreatment of wastewater; the method of irrigation; physical or vegetative barriers; studies of the content of the wastewater, such as pathogen studies; best management practices; environmental conditions, such as wind speed and direction; and other information relevant to protecting public health and the environment. Further information regarding buffer distances is set forth in The Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater. (4-11-06)
- 05. Class A Capacity.** The capabilities required of a Class A effluent treatment and distribution system in order to achieve and maintain compliance with these rules. (4-6-05)
- 06. Class A Effluent Distribution System.** The distribution system for Class A effluent as described in these rules. The distribution system does not include any of the collection or treatment portions of the wastewater facility and is not subject to operator licensing requirements of IDAPA 58.01.16, "Wastewater Rules". (4-11-06)
- 07. Department.** The Idaho Department of Environmental Quality. (4-1-88)
- 08. Director.** The Director of the Department of Environmental Quality or the Director's designee. (4-1-88)
- 09. Idaho Guidance for the Reclamation and Reuse of Municipal and Industrial Wastewater.** This document, and subsequent revisions of this document, provides assistance in applying and interpreting these rules relating to for permitting and operating reclamation and reuse facilities. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255 and www.deq.idaho.gov. (4-11-06)
- 10. Industrial Wastewater.** Wastewater that is the by-product of any industrial processes including, but not limited to, food processing or food washing wastewater. (4-11-06)
- 11. Land Application.** The application of municipal or industrial wastewater to land for the purpose of land treatment. (4-11-06)
- 12. Land Treatment.** The use of land, soil, and crops for treatment of municipal or industrial wastewater. (4-11-06)
- 13. Modal Contact Time.** The amount of time elapsed between the time that a tracer, such as salt or dye, is injected into the influent at the entrance to a chamber and the time that the highest concentration of the tracer is observed in the effluent from the chamber. (11-17-06)T

- ~~134.~~ **Municipal Wastewater.** Waste water that contains sewage. (4-1-88)
- ~~145.~~ **New Activity.** Any significant change in operation or construction of the wastewater treatment system which may impact the waters of the state. (4-1-88)
- ~~156.~~ **Non-Contact Cooling Water.** Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. (4-1-88)
- ~~167.~~ **NTU: (Nephelometric Turbidity Unit).** ~~—a unit of measurement of the level of turbidity. A~~ measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions.
(4-6-05)(11-17-06)T
- ~~178.~~ **Permit.** Written authorization by the Director to modify, operate, construct or discharge to a reclamation and reuse facility. (4-11-06)
- ~~189.~~ **Permittee.** The person to whom the reclamation and reuse permit is issued. (4-11-06)
- ~~1920.~~ **Person.** An individual, corporation, partnership, association, state, municipality, commission, political subdivision of the state, state agency, federal agency, special district, or interstate body. (4-1-88)
- ~~201.~~ **Point of Compliance.** That point in the reclamation and reuse facility where the reclaimed wastewater must meet the requirements of the permit. There may be more than one (1) point of compliance within the facility depending on the constituents to be monitored. (4-11-06)
- ~~212.~~ **Primary Effluent.** Raw wastewater that has been mechanically treated by screening, degritting, sedimentation and/or skimming processes to remove substantially all floatable and settleable solids. (4-1-88)
- ~~223.~~ **Processed Food Crop.** Any crop intended for human consumption that has been changed from its original form and further disinfection occurs. (4-1-88)
- ~~234.~~ **Rapid Infiltration System.** A wastewater treatment method by which wastewater is applied to land in an amount of twenty (20) to six hundred (600) feet per year for percolation through the soil. Vegetation is not generally utilized by this method. (4-1-88)
- ~~245.~~ **Raw Food Crop.** Any crop intended for human consumption which is to be used in its original form. (4-1-88)
- ~~256.~~ **Reclaimed Wastewater.** For the purpose of these rules, the term reclaimed wastewater shall mean wastewater that is used in accordance with these rules. (4-11-06)
- ~~267.~~ **Restricted Public Access.** Preventing public entry within the area or point of reuse of a facility and the buffer distance around the area by site location or physical structures such as fencing. A lesser buffer distance may be accepted if aerosol drift is reduced. (4-11-06)
- ~~278.~~ **Reclamation.** The treatment of municipal or industrial wastewater that allows it to be reused for beneficial uses. Reclamation also includes land treatment for wastewater that utilizes soil or crops for partial treatment. (4-11-06)
- ~~289.~~ **Reuse.** The use of reclaimed wastewater for beneficial uses including, but not limited to, land treatment, irrigation, aquifer recharge, use in surface water features, toilet flushing in commercial buildings, dust control, and other uses. (4-11-06)
- ~~2930.~~ **Reclamation and Reuse Facility or Facility.** Any structure or system designed or used for reclamation or reuse of municipal or industrial wastewater including, but not limited to, industrial and municipal wastewater treatment facilities, pumping and storage facilities, pipeline and distribution facilities, and the property to which the reclaimed wastewater is applied. This does not include industrial in-plant processes and reuse of process

waters within the plant. (4-11-06)

301. Sewage. The water-carried human wastes from residences, buildings, industrial establishments and other places. (4-1-88)

342. Sludge. The semi-liquid mass produced by treatment of water or wastewater. (4-1-88)

323. Time Distribution of Flows. A measurement of the volume of wastewater distributed over a specified area during a specified time period. Typical unit of measure is inches per acre per week. (4-1-88)

34. Turbidity. A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (11-17-06)T

335. Wastewater. Unless otherwise specified, industrial waste, municipal waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present but not including sludge, or non-contact cooling water. (4-1-88)

346. Waters and Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (4-1-88)

201. -- 299. (RESERVED).

300. PERMIT REQUIREMENTS AND APPLICATION.

01. Permit Required. No person shall construct, modify, operate, or continue to operate a reclamation and reuse facility without a valid permit issued by the Director as provided in these rules. (4-11-06)

02. Dischargers. No person shall discharge to a reclamation and reuse facility without a valid permit issued by the Director as provided in these rules. (4-11-06)

03. Pre-Application Conference. Prospective applicants are encouraged to meet with the Department to discuss application procedure and anticipated application requirements. (4-1-88)

04. Application Required. Every person requiring a permit under these rules shall submit a permit application to the Department: (4-1-88)

a. At least one hundred eighty (180) days prior to the day on which a new activity is to begin; or (4-11-06)

b. At least one hundred eighty (180) days prior to the expiration of any permit issued pursuant to these rules. (4-11-06)

05. Application Contents. Application shall be made on a form prescribed by the Director and available from the Department, ~~and~~ Except as provided in Subsection 300.05.1., the application shall include, but not be limited to, the following information: (~~4-1-88~~)(11-17-06)T

a. Name, location, and mailing address of the facility; (4-1-88)

b. Name, mailing address, and phone number of the facility owner and signature of the owner or authorized agent; (4-1-88)

c. The nature of the entity owning the facility (federal, state, private, or public entity); (4-1-88)

d. A list of local, state, and federal permits, licenses and approvals related to the activity which have

- been applied for and which have been received and the dates of application or approval; (4-1-88)
- e. A topographic map of the facility site identifying and showing the location and extent of: (4-1-88)
 - i. Wastewater inlets, outlets, and storage structures and facilities; (4-1-88)
 - ii. Wells, springs, wetlands, and surface waters; (4-1-88)
 - iii. Twenty-five (25), fifty (50), and one hundred (100) year flood plains, as available through the Federal Insurance Administration of the Federal Emergency Management Agency; (4-1-88)
 - iv. Service roads; (4-1-88)
 - v. Natural or man-made features necessary for treatment; (4-1-88)
 - vi. Buildings and structures; and (4-1-88)
 - vii. Process chemicals and residue storage facilities. (4-1-88)
 - f. A topographic map which may be separate from or combined with the facility site map, extending one quarter (1/4) mile beyond the outer limits of the facility site. The map shall identify and show the location and extent of the following: (4-1-88)
 - i. Wells, springs, wetlands, and surface waters; (4-6-05)
 - ii. Public and private drinking water supply sources and source water assessment areas (public water system protection area information); (4-6-05)
 - iii. Public roads; and (4-1-88)
 - iv. Dwellings and private and public gathering places. (4-1-88)
 - g. If the facility site or any portion thereof is leased or rented, a copy of that lease or rental agreement; (4-1-88)
 - h. The volume of wastewaters to be treated and the time distribution of flows; (4-1-88)
 - i. The physical, chemical, and biological characteristics of the wastewater; (4-1-88)
 - j. The climatic, hydrogeologic, and soil characteristics of the facility site. (4-1-88)
 - k. Other information may also be required. The Idaho Guidance for Reclamation and Reuse of Municipal and Industrial Wastewater is intended to provide assistance to permit applicants in obtaining a reclamation and reuse permit and may be considered in determining the need for other information. (4-11-06)
 - l. Under certain circumstances for permit reissuances, some information required in Subsections 300.05.a. through 300.05.k. may not be necessary for evaluation and will not be required. Application content requirements will be clarified at the pre-application conference. (11-17-06)T

06. Existing Reclamation and Reuse Facility Plan of Operation. Any existing reclamation and reuse facility shall be required to have a plan of operation which describes in detail the operation, maintenance, and management of the wastewater treatment system. (4-11-06)

07. New Reclamation and Reuse Facility Plan of Operation. Any new proposed reclamation and reuse facility shall be required to have a detailed plan of operation at the fifty percent (50%) completion point of construction. In addition, after one (1) year of operation the plan must be updated to reflect actual operating procedures. A general outline of the plan of operation must be provided with the permit application which will satisfy

the intent of these rules.

(4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

600. SPECIFIC PERMIT CONDITIONS.

01. Basis for Specific Permit Conditions. Conditions necessary for the protection of the environment and the public health may differ from facility to facility because of varying environmental conditions and wastewater compositions. The Director may establish, on a case-by-case basis, specific permit conditions. Specific conditions shall be established in consideration of characteristics specific to a facility and inherent hazards of those characteristics. Such characteristics include, but are not limited to: (4-1-88)

- a.** Chemical, biological, physical, and volumetric characteristics of the wastewater; (4-1-88)
- b.** Geological and climatic nature of the facility site; (4-1-88)
- c.** Size of the site and its proximity to population centers and to ground and surface water; (4-1-88)
- d.** Legal considerations relative to land use and water rights; (4-1-88)
- e.** Techniques used in wastewater distribution and the disposition of that vegetation exposed to wastewaters; (4-1-88)
- f.** Abilities of the soils and vegetative covers to treat the wastewater without undue hazard to the environment or to the public health; and (4-1-88)
- g.** The need for monitoring and record keeping to determine if the facility is being operated in conformance with its design and if its design is adequate to protect the environment and the public health. (4-1-88)

02. Duration of Permit. The permit shall be effective for a fixed term of not more than five (5) years. (4-1-88)

03. Limitations to Operation. Conditions of the permit may specify or limit: (4-1-88)

- a.** Wastewater composition; (4-1-88)
- b.** Method, manner, and frequency of wastewater treatment; (4-1-88)
- c.** Wastewater pretreatment requirements; (4-1-88)
- d.** Physical, chemical, and biological characteristics of a land treatment facility; and (4-11-06)
- e.** Any other condition the Director finds necessary to protect public health or environment. (4-1-88)

04. Compliance Schedules. The Director may establish a compliance schedule for existing facilities as part of the permit conditions including: (4-1-88)

- a.** Specific steps or actions to be taken by the permittee to achieve compliance with applicable requirements or final permit conditions; (4-1-88)
- b.** Dates by which those steps or actions are to be taken; and (4-1-88)
- c.** In any case where the period of time for compliance exceeds one (1) year the schedule may also establish interim requirements and the dates for their achievements. (4-1-88)

05. Monitoring Requirements. Any facility may be subject to monitoring requirements including, but not limited to: (4-1-88)

- a. The installation, use, and maintenance of monitoring equipment; (4-1-88)
- b. Monitoring or sampling methodology, frequency, and locations; (4-1-88)
- c. Monitored substances or parameters; (4-1-88)
- d. Testing and analytical procedures; and (4-1-88)
- e. Reporting requirements including both frequency and form. (4-1-88)

06. Rapid Infiltration Systems. The following minimum treatment requirements are established for land application of wastewater using rapid infiltration methods and systems. (4-11-06)

- a. Suspended solids content of wastewater which includes organic and inorganic particulate matter shall not exceed a thirty (30) day average concentration of one hundred (100) mg/l. (4-1-88)
- b. Nitrogen (total as N) content of wastewater shall not exceed a thirty (30) day average concentration of twenty (20) mg/l. (4-1-88)

07. Direct Use of Municipal Reclaimed Wastewater. Treatment requirements for reuse facilities applicable to direct use of municipal reclaimed wastewater include, but are not limited to, the following. The applicable treatment requirements, buffer zones, access restrictions, disinfection requirements, uses, and other requirements are further described in the Classification Table in Subsection 600.08. ~~(4-6-05)~~(11-17-06)T

a. Class A effluent is municipal reclaimed wastewater that may be used under particular circumstances for irrigation, including residential irrigation at individual homes; ground water recharge using surface spreading, seepage ponds, or other unlined surface water features; and ground water recharge using subsurface distribution; fire suppression from dedicated, marked hydrants and only by trained fire personnel, and not to be used in building sprinkler systems; dust suppression at construction sites; toilet flushing at industrial and commercial sites where only trained maintenance personnel have access to the plumbing for repair; or other uses acceptable to the Department. Class A effluent shall be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. Filtration approval requirements, nutrient removal requirements, turbidity limits requirements, monitoring requirements, reliability and redundancy requirements, and distribution system requirements also apply. Class A treatment systems are required to be pilot tested or otherwise approved by the Department per Subsection 601.04 of these rules. Class A effluent shall be considered adequately disinfected if, at the point of compliance, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, and does not exceed twenty-three (23) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. For ground water recharge using surface spreading, seepage ponds, and other unlined surface water features, IDAPA 58.01.11, "Ground Water Quality Rule," requirements apply. For Class A effluent, analysis shall be based on daily sampling during periods of use. The point of compliance for Class A effluent for total coliform shall be at any point in the system following final treatment and disinfection contact time. It is recommended but not required that the effluent also be disinfected following storage. Class A effluent for residential irrigation shall be applied only during periods of non-use. ~~(4-11-06)~~(11-17-06)T

b. Class B effluent is municipal reclaimed wastewater that may contact any edible portion of raw food crops; ~~or is~~ may be used to irrigate golf courses, parks, playgrounds, schoolyards and other areas where children are more likely to have access or exposure; or may be used for toilet flushing at industrial and commercial sites where only trained maintenance personnel have access to the plumbing for repair. Class B effluent shall be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. New Class B treatment systems are required to be pilot tested and approved by the Department prior to start-up. Class B effluent shall meet the following turbidity limits. The daily arithmetic mean of all daily measurements of turbidity shall not exceed two (2) NTU, and turbidity shall not exceed five (5) NTU at any time. Turbidity shall be measured

continuously. The turbidity standard shall be met prior to disinfection. For those systems that have in-line turbidimeters that are operating full-time, no additional monitoring for total suspended solids (TSS) is required. Class B effluent shall be considered adequately disinfected if, at the point of compliance, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, and does not exceed twenty-three (23) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. For Class B effluent, analysis shall be based on daily sampling during periods of application. The point of compliance for Class B effluent for total coliform shall be at any point in the system following final treatment and disinfection contact time. It is recommended but not required that the effluent also be disinfected following storage. Residual chlorine at the point of compliance shall be not less than one (1) mg/L free chlorine after a contact time of thirty (30) minutes at peak flow. If an alternative disinfection process is used, it must be demonstrated to the satisfaction of the Department that the alternative process is comparable to that achieved by chlorination with one (1) mg/L free chlorine after thirty (30) minutes contact time. Class B effluent shall be applied only during periods of non-use by the public. ~~(4-11-06)~~(11-17-06)T

c. Class C effluent is municipal reclaimed wastewater that ~~will~~ may only contact the inedible portion of raw food crops; ~~it is may be~~ used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground or will only contact the inedible portion of raw food crops; ~~it is may be~~ used to irrigate cemeteries, vegetation on sides and medians of highways, and other areas where individuals have access or exposure; or may be used for toilet flushing at industrial and commercial sites where only trained maintenance personnel have access to the plumbing for repair. Class C effluent shall be oxidized and adequately disinfected. Class C effluent shall be considered adequately disinfected if, at the point of compliance, the median number of total coliform organisms does not exceed twenty-three (23) per one hundred (100) milliliters, and does not exceed two hundred thirty (230) per one hundred (100) milliliters in any confirmed sample as determined from the bacteriological results of the last five (5) days for which analyses have been completed. For Class C effluent, analysis shall be based on weekly sampling during periods of application. The point of compliance for Class C effluent for total coliform shall be at any point in the system following final treatment and disinfection contact time. Class C effluent shall be applied only during periods of non-use by the public. ~~(4-11-06)~~(11-17-06)T

d. Class D effluent is municipal reclaimed wastewater that is used to irrigate fodder, seed, or processed food crops and is oxidized and adequately disinfected. Class D effluent shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters, not to exceed two thousand three hundred (2300) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last three (3) days for which analyses have been completed. For Class D effluent, analysis shall be based on monthly sampling during periods of application. The point of compliance for Class D effluent for total coliform shall be at any point in the system following final treatment and disinfection contact time. Animals shall not be grazed on land where Class D municipal wastewater is applied, and animals shall not be fed harvested vegetation irrigated in this manner within two (2) weeks of application. (4-11-06)

e. Class E effluent is municipal reclaimed wastewater that is used to irrigate forested sites where public access is restricted and the municipal wastewater shall be of at least primary effluent quality. Animals shall not be grazed on land where Class E municipal wastewater is applied, and animals shall not be fed harvested vegetation irrigated in this manner within four (4) weeks of application. (4-11-06)

08. Direct Use of Municipal Reclaimed Wastewater -- Classification Table. The following table ~~further describes~~ provides a brief summary of the requirements for direct use of municipal reclaimed wastewater outlined in Subsection 600.07. If there are discrepancies between Subsections 600.07 and 600.08, the requirements of Subsection 600.07 prevail.

Classification Table					
Classification	Class A	Class B	Class C	Class D	Class E
Treatment	This is a partial list - see Section 601 for more detail: Oxidized, clarified, and coagulated, with filtration approval requirements or treated by an equivalent process, plus nutrient removal requirements, turbidity limits requirements, adequately disinfected and tested.	Oxidized, coagulated, clarified, and filtered, or treated by an equivalent process, turbidity limits requirements, and adequately disinfected and tested.	Oxidized and adequately disinfected	Oxidized and adequately disinfected	At least primary effluent quality
Disinfection	Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters	Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters	Total coliform organisms does not exceed twenty three (23) per one hundred (100) milliliters	Total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters	Total coliform organisms up to "too numerous to count"

Classification Table					
Classification	Class A	Class B	Class C	Class D	Class E
Uses	<p><u>May be used for residential irrigation at individual homes;</u> or <u>ground water recharge using surface spreading, seepage ponds; or other unlined surface water features;</u> <u>ground water recharge using subsurface distribution; fire suppression from dedicated, marked hydrants; dust suppression at construction sites; toilet flushing at industrial and commercial sites;</u> or Class B, C, D, or E uses. Other requirements apply for ground water uses. See <u>Subsection 600.07.a.</u></p>	<p>May contact any edible portion of raw food crops; or <u>may be used to irrigate golf courses, parks, playgrounds, schoolyards; may be used for toilet flushing at industrial and commercial sites;</u> or Class C, D, or E uses. See <u>Subsection 600.07.b.</u></p>	<p><u>May be used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground, or will only contact the unedible portion of raw food crops;</u> or <u>may be used to irrigate cemeteries; or roadside vegetation; may be used for toilet flushing at industrial and commercial sites;</u> or Class D or E uses. See <u>Subsection 600.07.c.</u></p>	<p><u>May be used to irrigate fodder, seed, or processed food crops;</u> or Class E uses. See <u>Subsection 600.07.d.</u></p>	<p><u>May be used to irrigate forested sites. See Subsection 600.07.e.</u></p>
Access Restriction	Irrigated during periods of non-use.	Irrigated during periods of non-use by the public.	Irrigated during periods of non-use by the public.	Public access restricted.	Public access restricted.
Signing and Posting	See Subsection 601.02	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater

Classification Table					
Classification	Class A	Class B	Class C	Class D	Class E
Buffer Distances	No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required. <u>One hundred (100) feet minimum to drinking water wells.</u>	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater. No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required.	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater. No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required.	Site specific - See Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater. No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required.	1000 ft. to inhabited dwellings and areas accessible to the public. No effluent is allowed to be applied to surface waters in those circumstances when an NPDES Permit is required.
Grazing	Grazing allowed only with approved grazing management plan.	Grazing allowed only with approved grazing management plan.	Grazing allowed only with approved grazing management plan.	Grazing not allowed.	Grazing not allowed.

~~(4-11-06)~~(11-17-06)T

601. CLASS A EFFLUENT MUNICIPAL RECLAIMED WASTEWATER -- ADDITIONAL REQUIREMENTS.

01. Engineering Report. Engineering reports and application materials for new Class A effluent municipal reclaimed wastewater systems or major upgrades to Class A effluent municipal reclaimed wastewater systems shall be submitted to the Department with the application and must be approved by the Department prior to permit issuance. The engineering report shall include, but not be limited to, the following items as applicable: purpose; approach; development of alternatives; technical, financial, managerial, and legal issues; emergency response and security; operation and maintenance; consideration of alternatives for disposal of unanticipated excess effluent that does not meet Class specifications; pilot testing; client use issues; potential markets for reclaimed wastewater; potential sources of wastewater; public involvement and perception; targeted markets for reclaimed wastewater; allocation of reclaimed wastewater; preliminary investigations; staff development; treatment system upgrades to meet Class A requirements; distribution system development and schedule; new development infrastructure; reservoir or booster capacity; water balance calculations; costs; applicable regulations; and potential funding sources. This engineering report shall be stamped, dated and signed in accordance with Idaho Board of Registration of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.02, "Rules of Professional Responsibility". ~~(4-11-06)~~(11-17-06)T

02. Distribution System Requirements. Class A distribution systems and the continued distribution systems of all of its customers shall have specific requirements including, but not limited to: (4-6-05)

a. Any person or agency that is planning to construct all or part of the distribution system must obtain a plan and specification approval from the Department prior to beginning construction. Where Class A effluent is to be provided by pressure pipeline, the following applicable standards shall be used as guidance: the current edition of "Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers," the "AWWA Manual M24" Chapter 4 for dual water systems, and the current edition of "Idaho Standards for Public Works Construction". The above guidance documents shall be used for all new systems constructed after

April 1, 2005. Requirements for irrigation systems proposed for conversion from use of non-Class A effluent water to use with Class A effluent will be considered on a case-by-case basis considering protection of public health and the environment. (4-6-05)

- b. Distribution Lines. (4-6-05)
- i. Minimum Separation. (4-6-05)

(1) Horizontal Separation. Class A effluent distribution mains parallel to potable (culinary) water mains shall be installed in accordance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06. Class A effluent distribution mains parallel to sanitary sewer mains shall be installed at least five (5) feet horizontally from the sanitary sewer main if the sanitary sewer main is located above the Class A effluent main, and three (3) feet horizontally from the sanitary sewer main if the sanitary sewer main is located below the Class A effluent main. (4-6-05)

(2) Vertical Separation. At crossings of Class A effluent distribution mains with potable water mains and sanitary sewer mains, the order of the mains from lowest in elevation to highest should be: sanitary sewer main, Class A effluent main, and potable water main. A minimum of eighteen (18) inches vertical separation between each of these utilities shall be provided as measured from outside of pipe to outside of pipe. The crossings shall be arranged so that the Class A effluent main joints will be equidistant and as far as possible from the potable water main joints and the sanitary sewer main joints. If the Class A effluent water main must cross above the potable water main, the vertical separation shall be a minimum eighteen (18) inches, the Class A effluent main shall be supported to prevent settling, and the Class A effluent main shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to ten (10) feet. If the Class A effluent main must cross below the sanitary sewer main, the vertical separation shall be a minimum eighteen (18) inches and the Class A effluent main shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to ten (10) feet. ~~(4-6-05)~~(11-17-06)T

(3) Special Provisions. Where the horizontal and/or vertical separation as required above cannot be maintained, special construction requirements shall be provided in accordance with requirements in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06, for protection of potable water mains. (4-6-05)

- ii. Class A Effluent Pipe Identification. (4-6-05)

(1) General. All new buried pipe, including service lines, valves, and other appurtenances, shall be colored purple, Pantone 512 or equivalent. If fading or discoloration of the purple pipe is experienced during construction, identification tape or locating wire along the pipe is required. Label piping every ten (10) feet "Caution: Reclaimed Wastewater - Do Not Drink" in both Spanish and English lettering. ~~(4-6-05)~~(11-17-06)T

(2) Identification Tape. If identification tape is installed along with the purple pipe, it shall be prepared with white or black printing on a purple field, color Pantone 512 or equivalent, having the words, "Caution: Reclaimed Wastewater - Do Not Drink" in both Spanish and English lettering. The overall width of the tape shall be at least three (3) inches. Identification tape shall be installed eighteen (18) inches above the transmission pipe longitudinally, shall be centered over the pipe, and shall run continuously along the length of the pipe. ~~(4-6-05)~~(11-17-06)T

iii. Conversion of Existing Drinking Water or Irrigation Water Lines. Existing water lines that are being converted to use with Class A effluent or a combination of Class A effluent and irrigation water shall first be accurately located and comply with leak test standards in accordance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06, and in coordination with the Department. The pipeline must be physically disconnected from any potable water lines and brought into compliance with current state cross connection rules and requirements (IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.07), and must meet minimum separation requirements set forth in Subsection 601.02.b. of these rules. If the existing lines meet approval of the water supplier and the Department based upon the requirements set forth in Subsection 601.02.b.iii. of these rules, the lines shall be approved for Class A effluent distribution. If regulatory compliance of the system (accurate location, pressure testing, and verification of no cross connections) cannot be verified with record drawings, testing, televising, or otherwise, the lines shall be uncovered, inspected, and identified or otherwise verified to the Department's satisfaction prior to use. All accessible portions of the system must be retrofitted to meet the

requirements of these rules. After conversion of the water or irrigation line to a Class A wastewater effluent line, the lines shall be marked as stated in Subsection 601.02.b.ii.(2) of these rules. ~~(4-6-05)~~(11-17-06)T

iv. Valve Boxes and Other Surface Identification. All valves shall have locking valve covers that are non-interchangeable with potable water valve covers, and shall have an inscription cast on the top surface stating "Reclaimed Wastewater." Valve boxes shall meet the requirements of IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06. All above ground pipes and pumps shall be consistently color coded (purple, Pantone 512) and marked to differentiate Class A effluent facilities from potable water facilities. ~~(4-11-06)~~(11-17-06)T

v. Blow-off Assemblies. If either an in-line type or end-of-line type blow-off or drain assembly is installed in the system, a plan for proposed discharge or runoff locations shall be submitted to the Department for review and approval. (4-6-05)

c. Storage. If storage or impoundment of Class A effluent is provided, the following requirements apply: (4-6-05)

i. Fencing. No fencing is required by these rules, but may be required by local laws or ordinances. (4-6-05)

ii. Identification. All storage facilities shall be identified by signs prepared according to the requirements of Subsection 601.02.e.v. of these rules. Signs shall be posted on the surrounding fence at minimum five hundred (500) foot intervals and at the entrance of each facility. If there is no fence, signs shall be located at a minimum on each side of the facility or at minimum two hundred fifty (250) foot intervals or at all accessible points. (4-6-05)

iii. For systems supplying irrigation water for residential lawn irrigation, minimum storage requirements shall include sufficient volume for daily use patterns, precipitation events, etc., and an alternate disposal point during non-irrigation season. (4-6-05)

d. Pumping Facilities. (4-6-05)

i. Marking. All exposed and above ground piping, risers, fittings, pumps, valves, etc., shall be painted purple, Pantone 512. In addition, all piping shall be identified using an accepted means of labeling reading "Warning: Reclaimed Wastewater - Do Not Drink" in both Spanish and English lettering. In a fenced pump station area, signs shall be posted on the fence on all sides. ~~(4-6-05)~~(11-17-06)T

ii. Seal Water. Any potable water used as seal water for reclaimed water pump seals shall be protected from backflow with a Department approved backflow prevention device or air gap. (4-6-05)

e. Other Requirements. (4-6-05)

i. Backflow Protection. In no case shall a direct connection be made between the potable and Class A effluent system. If it is necessary to put potable water into the Class A effluent distribution system, a Department approved reduced pressure principal device or air gap must be provided to protect the potable water system. (4-6-05)

ii. Drinking fountains, picnic tables, food establishments, and other public eating facilities shall be placed out of any spray irrigation area in which Class A effluent is used, or shall be otherwise protected from contact with the Class A effluent. Exterior drinking fountains, picnic tables, food establishments, and other public eating facilities shall be shown and called out on the construction plans. If no exterior drinking fountains, picnic tables, food establishments, or other public eating facilities are present in the design area, then it shall be specifically stated on the plans that none are to exist. (4-6-05)

iii. Equipment and Facilities. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with Class A effluent shall not be used with potable water or sewage. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with sewage shall not be used with Class A effluent or potable water. (4-6-05)

iv. Warning Labels. Warning labels shall be installed on designated facilities such as, but not limited to, controller panels and washdown or blow-off hydrants on water trucks, hose bibs, and temporary construction services. The labels shall read, "Warning: Reclaimed Wastewater - Do Not Drink" in both Spanish and English lettering. ~~(4-6-05)~~(11-17-06)T

v. Warning signs. Where reclaimed water is stored or impounded, or used for irrigation in public areas, warning signs shall be installed and contain, at a minimum, one (1) inch purple letters (Pantone 512 or equivalent) on a white or other high contrast background notifying the public that the water is unsafe to drink. Signs may also have a purple background with white or other high contrast lettering. Warning signs and labels shall read, "Warning: Reclaimed Wastewater - Do Not Drink" in both Spanish and English lettering. ~~The signs shall include the international symbol for Do Not Drink.~~ ~~(4-6-05)~~(11-17-06)T

03. Other Permits Addressed as Necessary. The following other permits may be necessary for a particular facility but are not regulated under these rules: (4-6-05)

a. NPDES permits from the Environmental Protection Agency for surface water discharge. (4-6-05)

b. Injection well permits from Idaho Department of Water Resources. (4-6-05)

04. Filtration Technology. (11-17-06)T

~~04a.~~ Filtration Technology Approval Acceptance Requirements. All Class A effluent projects in Idaho must have written approval acceptance from the Department for their proposed filtration technology prior to submitting plans and specifications for approval. Except as provided in Subsections 601.04.b.i. and 601.04.b.ii., the following approaches are methods by which this written approval acceptance may be obtained from the Department. Consultants and vendors shall submit written requests with accompanying product information to the Department's State Office Wastewater Program. ~~(4-6-05)~~(11-17-06)T

~~a~~i. Department approval acceptance based on previous similar projects in Idaho. ~~(4-6-05)~~(11-17-06)T

~~b~~ii. National approval by National Reuse Association, Water Environment Federation Research Foundation, NSF International, or other organization approved accepted by the Department. ~~(4-6-05)~~(11-17-06)T

~~c~~iii. The State of California Department of Health Services Treatment Technology Report for Recycled Water, <http://www.dhs.ca.gov/ps/ddwem/publications/waterrecycling/treatmenttechnology.pdf>. ~~(4-6-05)~~(11-17-06)T

~~d~~iv. Other methods approved accepted by the Department, including pilot testing. ~~(4-11-06)~~(11-17-06)T

b. Filter Loading, Coagulation, and Acceptance Requirements. (11-17-06)T

i. For mono, dual or mixed media gravity or pressure filtration systems, influent shall be coagulated, clarified and passed through an undisturbed bed of soils or filter media at a rate not to exceed five (5) gallons per minute per square foot. For traveling bridge automatic backwash filters, influent shall be coagulated, clarified and passed through an undisturbed bed of soils or filter media at a rate not to exceed two (2) gallons per minute per square foot. Coagulation may be waived if all of following are met: the filter effluent does not exceed two (2) NTU, the filter influent is continuously measured, the filter influent turbidity does not exceed five (5) NTU, and automatically activated chemical addition or diversion facilities are provided in the event filter effluent turbidity exceeds five (5) NTU. (11-17-06)T

ii. Gravity or pressure filters as described in Subsection 601.04.b.i. are recognized as being acceptable filtration processes under these rules. (11-17-06)T

iii. Other granular media filters that have a continuous backwash feature, pulsed bed feature, or other feature that, in the determination of the Department, does not comply with Subsection 601.04.b.i.; membrane filters; or cloth filters must obtain acceptance in accordance with Subsection 601.04.a. (11-17-06)T

05. Nutrient Removal Requirements. Total nitrogen at the point of compliance shall not exceed ten (10) mg/L for ground water recharge systems, and thirty (30) mg/L for residential irrigation and other non-recharge systems, based on a monthly arithmetic mean as determined from weekly composite sampling. These limits may be much lower depending on the results of any applicable nutrient-pathogen studies that may be required. (4-11-06)

06. Turbidity ~~Limits and Monitoring~~ Requirements and Disinfection Requirements. ~~(4-6-05)~~(11-17-06)T

a. One (1) in-line, continuously monitoring, recording turbidimeter is required for each treatment train after filtration and prior to disinfection. ~~(4-6-05)~~(11-17-06)T

b. Class A effluent shall meet the following turbidity limits. For systems utilizing sand or other granular media or cloth media, the daily arithmetic mean of all daily measurements of turbidity shall not exceed two (2) NTU, and turbidity shall not exceed five (5) NTU at any time. ~~Turbidity shall be measured continuously. The turbidity standard shall be met prior to disinfection.~~ For systems utilizing membrane filtration, the daily arithmetic mean of all daily measurements of turbidity shall not exceed zero point two (0.2) NTU, and turbidity shall not exceed zero point five (0.5) NTU at any time. ~~(4-6-05)~~(11-17-06)T

c. Class A effluent shall be disinfected by either: (11-17-06)T

i. A chlorine disinfection process that provides a concentration/contact time (CT) of four hundred fifty (450) milligram-minutes per liter (mg-min/L) measured at the end of the contact time with a modal contact time of not less than ninety (90) minutes based on peak day dry weather flow; or (11-17-06)T

ii. A disinfection process that, when combined with filtration, has been demonstrated to achieve 5-log inactivation of virus. Acceptance by the State of California Department of Health Services as published in their Treatment Technology Report for Recycled Water is one method to constitute such a demonstration. (11-17-06)T

07. Reliability and Redundancy Requirements. (4-6-05)

a. Redundant Treatment Capabilities. (11-17-06)T

~~#i.~~ Class A treatment systems shall have redundant treatment capabilities able to treat peak day flow, and Class A treatment systems shall also provide for: (11-17-06)T

(1) An alternative disposal option; or (11-17-06)T

(2) Diversion to adequate lined storage capable of storing seven (7) days of effluent; or (11-17-06)T

(3) Equivalent back-up system. (11-17-06)T

ii. Each of these three (3) alternatives must be automatically activated if turbidity exceeds or chlorine residual drops below the instantaneous required value for more than five (5) minutes, or if the alternative filtration/disinfection system is not achieving its required 5-log removal/inactivation of virus for more than five (5) minutes. Peak flow is defined for the purpose of this rule Subsection 601.07 to mean the peak day flow of the plant anticipated for the season in which Class A effluent is being produced. The maximum number of times a facility could exceed on this basis is twice in one (1) week, both of which times are required to be immediately reported. Failure to report or exceeding more than twice in one (1) week are sufficient grounds for the Department to require the system to be shut down for inspection and repair. ~~(4-11-06)~~(11-17-06)T

b. Redundant facilities, including, but not limited to, monitoring equipment and treatment trains shall be required. (4-6-05)

c. Standby Power sufficient to maintain all treatment and distribution works shall be required for the Class A effluent use. An alternative to this is to provide standby power sufficient for basic treatment and for automatic by-pass of filtration directly to an alternative permitted disposal option ~~or diversion to lined storage.~~ ~~(4-6-05)~~(11-17-06)T

d. Standby treatment filter units in fully operable condition capable of treating peak flow, with the largest filter unit out of service, shall be plumbed and wired in place for immediate use. Peak flow is defined for the purpose of this rule to mean the peak day flow of the plant anticipated for the season in which Class A effluent is being produced. An alternative to this is automatic by-pass of filtration directly to an alternative permitted disposal option or diversion to lined storage. ~~(4-11-06)~~(11-17-06)T

08. Other Class A Effluent Requirements. (4-6-05)

a. Minimum treatment system size shall be ten thousand (10,000) gallons per day of wastewater flow being treated. (4-11-06)

b. Five (5) Day Biochemical Oxygen Demand (BOD5) shall not exceed five (5) mg/L ~~shall not exceed five (5) mg/L~~ for ground water recharge systems, and ten (10) mg/L each for residential irrigation and other non-recharge systems, based on a monthly arithmetic mean as determined from weekly composite sampling. ~~(4-11-06)~~(11-17-06)T

c. The pH as determined by daily grab samples or continuous monitoring shall be between six point zero (6.0) and nine point zero (9.0) inclusive. (4-11-06)

~~d. Residual Chlorine at the point of compliance shall be not less than one (1) mg/L free chlorine after a contact time of thirty (30) minutes at peak flow. If an alternate disinfection process is used, it must be demonstrated to the satisfaction of the Department that the alternative process is comparable to that achieved by chlorination with a one (1) mg/L free chlorine residual after thirty (30) minutes contact time. (4-6-05)~~

ed. For any type of ground water recharge system, the Class A effluent must also meet ground water quality standards per IDAPA 58.01.11, "Ground Water Quality Rule," at the point of compliance, and comply with the remaining sections of the "Ground Water Quality Rule". For these types of ground water recharge systems utilizing Class A effluent municipal reclaimed wastewater, the applicant shall propose to the Department for review and approval, the applicable testing requirements for the effluent as it relates to the primary and secondary ground water standards, as well as background ground water quality. Ground water recharge site locations shall be a minimum of one thousand (1000) feet from any down gradient drinking water extraction well and shall also provide for a minimum of six (6) months time of travel in the aquifer prior to withdrawal. The minimum requirements for site location and aquifer storage time may also be greater depending on any source water assessment zone studies for public drinking water wells in the area. The owners of these systems must control the ownership of this down gradient area to prohibit future wells from being drilled in the impact zone of the ground water recharge system. The Idaho Department of Water Resources requires additional permits for ground water injection wells. (4-11-06)

fe. A filter to waste operational criteria is required for all Class A effluent filtration facilities for each time a filter starts up. The filter will automatically filter to waste until the effluent meets the required turbidity standard. (4-6-05)

gf. Additional information in the form of reports by qualified soil scientists, professional geologists, professional engineers, or other qualified individuals relating to environmental assessments, nutrient management plans, or water rights issues shall be submitted to the Department at the pre-application conference or with the application and must be approved by the Department prior to permit issuance. (4-6-05)

hg. Requirements for Class A effluent distribution system operators. All operators of Class A effluent distribution systems, including operators of distribution systems that utilize a combination of Class A effluent and other irrigation waters, operators of the distribution system from the wastewater treatment plant to the point of compliance or point of use or point of sale, as applicable, and those operators that are employed by buyers of the Class A effluent for subsequent use, including home occupants, shall be required to sign a utility user agreement provided by the utility providing the Class A effluent that states that the user acknowledges that the user understands the origin of the effluent and the concept of agronomic rate for applying the Class A effluent. Contracts for sale of Class A effluent for subsequent use shall also include these requirements. Individual homeowners are allowed to operate or maintain Class A effluent distribution systems. Providers of the Class A effluent shall undertake a public education program within its service area to teach potential customers the benefits and responsibilities of using Class

A effluent

~~(4-11-06)~~(11-17-06)T

h. Requirements for mixing Class A effluent with other irrigation waters. Mixing Class A effluent with other irrigation waters may be conducted in a pipe to pipe manner if both the other irrigation water source and the Class A source are protected by Department approved backflow devices. Class A effluent may be mixed with other irrigation water in an unlined pond if the Class A effluent is permitted for aquifer recharge. Class A effluent that is permitted for irrigation only and not aquifer recharge may be mixed with other irrigation water only in a lined pond. Water from these mixed ponds may then be used for permitted Class A uses. If any of the water from these mixed ponds ultimately discharges to a canal, drain or other surface water, an NPDES permit may be required due to the presence of effluent in the mixed water. A downstream water user does not need a permit under these rules when mixed effluent/irrigation water is used after it is discharged, in accordance with these rules, to a canal, drain or other surface water.

(11-17-06)T

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0103-0601

NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for rescinding the temporary rule:

Section 59-1322(1), Idaho Code, requires the Retirement Board (Board) to establish contribution rates to adequately fund the retirement system, subject to certain requirements. In 2003, the Board adopted proposed rules that provided for a series of three annual contribution rate increases beginning July 1, 2004, through July 1, 2006. The first of those increases went into effect, but favorable market conditions significantly improved the funding status of the plan and in 2005 the board postponed the two subsequent increases for one year, until July 1, 2006, and July 1, 2007, respectively. In 2006 the Board again postponed the increases until July 1, 2007, and July 1, 2008, respectively. The Board has now determined that the two additional increases scheduled for July 1, 2007 and July 1, 2008, can each be postponed another year, to July 1, 2008 and July 1, 2009, respectively. The Board will continue to monitor funding and market conditions and will take additional action if appropriate. New rates apply to the first pay period beginning on or after the applicable date. These changes are reflected in a new temporary rule in docket number 59-0103-0701, effective February 1, 2006.

This temporary rule is rescinded the same day, effective February 1, 2006.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the rescission of this temporary rule, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 25th day of October, 2006.

Alan H. Winkle
Executive Director
Public Employee Retirement System of Idaho
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IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0103-0701

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rules is February 1, 2007.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for temporary rulemaking:

Section 59-1322(1), Idaho Code, requires the Retirement Board (Board) to establish contribution rates to adequately fund the retirement system, subject to certain requirements. In 2003, the Board adopted proposed rules that provided for a series of three annual contribution rate increases beginning July 1, 2004, through July 1, 2006. The first of those increases went into effect, but favorable market conditions significantly improved the funding status of the plan and in 2005 the board postponed the two subsequent increases for one year, until July 1, 2006, and July 1 2007, respectively. In 2006 the Board again postponed the increases until July 1, 2007, and July 1, 2008, respectively. The Board has now determined that the two additional increases scheduled for July 1, 2007 and July 1, 2008, can each be postponed another year, to July 1, 2008 and July 1, 2009, respectively. The Board will continue to monitor funding and market conditions and will take addition action if appropriate. New rates apply to the first pay period beginning on or after the applicable date.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rules is appropriate for the following reasons:

This rule change will confer a benefit on PERSI employees and employers.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rules, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 31st day of October, 2006.

Alan H. Winkle
Executive Director
Public Employee Retirement System of Idaho
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0103-0701

026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (RULE 26).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point thirty-nine percent (10.39%) of payroll through June 30, 200~~7~~⁸. Beginning July 1, 200~~7~~⁸, the rate shall be eleven percent (11.00%) of payroll through June 30, 200~~8~~⁹. Beginning July 1, 200~~8~~⁹, the rate shall be eleven point sixty-one percent

(11.61%) of payroll until next determined by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) (Amended 6-30-05) (Amended 2-1-06) ~~(2-1-06)~~(2-1-07)T

027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (RULE 27).

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

01. Option I and II Firefighters. For option I and II firefighters hired before October 1, 1980, as follows:

Option I and II Firefighters	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 200 78 . Beginning July 1, 200 78 , the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 200 89 . Beginning July 1, 200 89 , the rate shall be eleven point ninety-five percent (11.95%) of payroll until next determined by the Board.
Additional Employer Rate:	One percent (1.00%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Thirty-six percent (36%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be thirty-six point sixty-two percent (36.62%) of payroll through June 30, 200 78 . Beginning July 1, 200 78 , the rate shall be thirty-seven point twenty-three percent (37.23%) of payroll through June 30, 200 89 . Beginning July 1, 200 89 , the rate shall be thirty-seven point eighty-four percent (37.84%) of payroll until next determined by the Board.

~~(2-1-06)~~(2-1-07)T

02. Class D Firefighters. For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund), as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 200 78 . Beginning July 1, 200 78 , the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 200 89 . Beginning July 1, 200 89 , the rate shall be eleven point ninety-five percent (11.95%) of payroll until next determined by the Board.
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Twenty-seven point thirty-five percent (27.35%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be twenty-seven point ninety-seven percent (27.97%) of payroll through June 30, 200 78 . Beginning July 1, 200 78 , the rate shall be twenty-eight point fifty-eight percent (28.58%) of payroll through June 30, 200 89 . Beginning July 1, 200 89 , the rate shall be twenty-nine point nineteen percent (29.19%) of payroll until next determined by the Board.

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) (Amended 6-30-05) (Amended 2-1-06)

~~(2-1-06)~~F(2-1-07)T

03. Class E Members. For class E members (general members who meet the definition of paid firefighter under Section 59-1391(f), Idaho Code, but are not firefighters as defined in Section 59-1302(16), Idaho Code) the employer general member contribution rate as provided in Rule 26, plus the excess merger costs specified in Subsection 027.01. (3-20-04)

028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (RULE 28).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police officer member excluding those listed in Rule 29 of this chapter when applicable, and firefighters excluding those listed in Rule 27 of this chapter, shall be ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2007~~8~~. Beginning July 1, 2007~~8~~, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 2008~~9~~. Beginning July 1, 2008~~9~~, the rate shall be eleven point ninety-five percent (11.95%) of payroll until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) (Amended 6-30-05) (Amended 2-1-06)

~~(2-1-06)~~F(2-1-07)T

(BREAK IN CONTINUITY OF SECTIONS)

100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (RULE 100).

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be six point twenty-three percent (6.23%) of salary through June 30, 2007~~8~~. Beginning July 1, 2007~~8~~, the rate shall be six point sixty percent (6.60%) of salary through June 30, 2008~~9~~. Beginning July 1, 2008~~9~~, the rate shall be six point ninety-seven percent (6.97%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) (Amended 6-30-05) Amended 2-1-06

~~(2-1-06)~~F(2-1-07)T

101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (RULE 101).

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police officer member is seven point twenty-one percent (7.21%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be seven point sixty-five percent (7.65%) of salary through June 30, 2007~~8~~. Beginning July 1, 2007~~8~~, the rate shall be eight point zero-nine percent (8.09%) of salary through June 30, 2008~~9~~. Beginning July 1, 2008~~9~~, the rate shall be eight point fifty-three percent (8.53%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) (Amended 6-30-05) (Amended 2-1-06)

~~(2-1-06)~~F(2-1-07)T

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LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

IDAPA 08 - STATE BOARD OF EDUCATION PO Box 83720, Boise, ID 83720-0037

08-0203-0607, Rules Governing Thoroughness. (Temporary & Proposed) Incorporates by reference the Idaho Alternative Assessment Extended Achievement Standards. Comment by: 1/24/07.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE PO Box 83720, Boise, ID 83720-0036

16-0202-0701, Rules of the Idaho Emergency Medical Services (EMS) Physician Commission. (Temporary & Proposed) Provides incentives to Idahoans to purchase a Qualified Long Term Care Partnership Policy to manage the payment of their individual long term care. Public hearings are scheduled. Comment by: 1/24/07.

****16-0305-0701, Rules Governing Eligibility for Aid for the Aged, Blind, and Disabled (AABD).** (Temporary & Proposed) Encourages Idahoans to purchase a Qualified Long Term Care Partnership Policy for individuals to manage the payment of long term care by providing incentive to individuals to purchase a Qualified Long Term Care Partnership Policy. Comment by: 1/24/07.

16-0309-0701, Medicaid Basic Plan Benefits. (Temporary & Proposed) Complies with HB 663 by establishing cost-sharing measures for Medicaid participants. Comment by: 1/24/07.

16-0318-0701, Medicaid Cost-Sharing. (Temporary & Proposed) Complies with HB 663 by establishing cost-sharing measures for Medicaid participants. Comment by: 1/24/07.

16.05.06 - Rules Governing Mandatory Criminal History Checks.

16-0506-0601, (Temporary & Proposed) Chapter repeal. Comment by: 1/24/07.

16-0506-0602, (Temporary & Proposed) Chapter rewrite complies with statutory changes relating to the costs and fees for criminal history and background checks; updates requirements for new technology used to process fingerprints and online applications; clarifies when an individual can provide care or services for an employer and when an applicant for certification and licensure receives a clearance; amends and adds disqualifying crimes, offenses, and the length of time that results in a denial or clearance; adds requirements for the disposition of the criminal history and background check results; updates list of individuals required to comply with this chapter of rules. Comment by: 1/24/07.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES 1109 Main St., Ste 220, Boise, ID 83702

24-0301-0701, Rules of the State Board of Chiropractic Physicians. Defines the scope of practice. Comment by: 1/24/07.

24-1301-0701, Rules of the Physical Therapy Licensure Board. (Temporary & Proposed) Establishes the exams and passing scores required for licensure. Comment by: 1/24/07.

(Temporary Rules Have Been Adopted in the Following Rulemakings)

IDAPA 58 - Idaho Department of Environmental Quality

58-0117-0701, Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater.

IDAPA 59 - Public Employee Retirement System of Idaho

59-0103-0701, Contribution Rules for the Public Employee Retirement System of Idaho.

Please refer to the Idaho Administrative Bulletin ***Volume 07-1, January 3, 2007***, for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at the county law libraries or online.

To view the Bulletin or Code or for information on purchasing the Bulletin and other rules publications, visit our website at **adm.idaho.gov/adminrules/** or call (208) 332-1820 or write the Dept. of Administration, Office of Administrative Rules, 650 W. State St., Room 100, Boise, ID 83720-0306.

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

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**This index tracks the history of all agency rulemakings from 1993 to the present.
It includes all rulemaking activities on each chapter of rules
and includes negotiated, temporary, proposed, pending
and final rules, public hearing notices
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